

BLIND RIGHTS

AN EXAMINATION OF THE LAW RELATING TO THE BLIND
IN CANADA WITH PARTICULAR REFERENCE
TO NOVA SCOTIA

DAVID R. LOWRY



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B L I N D R I G H T S :

An Examination of the Law Relating
to the Blind in Canada with particular
reference to Nova Scotia

by

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Preface

In December of 1970 a group of blind and sighted citizens of Halifax approached the author of this Report with a view to obtaining help in researching the law insofar as it related to the blind. This ad-hoc group, which later became known as the Blind Rights Action Movement (B.R.A.M.), felt that the blind citizen is put at many disadvantages by a society that did not seem to care about them.

It was clear that the feelings of frustration and alienation were very real, but what was not so readily apparent was the precise issue of exactly what rights the blind did or did not possess. A cursory glance at the legal digests and periodicals revealed that very little research had been conducted in this field and nothing had been written, in recent years, of the rights and legal status of the blind.

Early in 1971, it was decided that an approach would be made to the Citizenship Branch of the Department of the Secretary of State in order to obtain funds for research into the laws affecting the blind. The research proposal was interesting in itself. As so little was known of the quantity of research work to be undertaken the proposal gave virtually no guarantees to the Department of the Secretary of State. To its credit, the Department immediately approved the proposal and thus facilitated this study.

The object of this study was stated in the proposal to be, inter alia,

"To research all of the available law and social facts regarding the present status of Blind persons in Nova Scotia and in Canada generally. To identify and evaluate the current and most urgent social problems faced by this minority group."

The duration of the project was left as "open-ended".

During the summer of 1971, three law students were engaged on a full-time basis and, in addition, the personnel of Dalhousie Legal Aid Service offered their services to the Blind Rights Action Movement (B.R.A.M.) in order to help them to organize and incorporate their Society. The Legal Aid Service continued to give legal help, of a practical nature, during the Fall of 1971.

After embarking upon this study, it became clear that so little was known that this paper would inevitably be more of a working paper than a final and conclusive statement of law and fact. It is to be hoped that this Report will form the basis in the future of on-going research and analysis into the rights of the blind as much remains to be done.

It is impossible to acknowledge all of the help that we have received from numerous sources in Nova Scotia, throughout Canada and the United States, however, special mention must be made of the help given by Mr. J. Frank Glasgow of the Department of the Secretary of State (Halifax office). In addition, much information and encouragement was received from Mr. E. Russell, Mr. Chris Stark and many other members of B.R.A.M. It is appropriate to acknowledge the invaluable help given to the research team by Dr. Robert Parkin and Dr. Barbara Clark. Mention must also be made of the part-time assistance of two law students, Mr. Bill Leslie of Dalhousie Law School and Mr. Clayton A. Rice, Assistant Director of Dalhousie Legal Aid Service. The full-time student legal researchers during the summer of 1971 were Miss Mary Cleyle, Mr. Howard Epstein and Mrs. Barbara Grant.

The laws referred to in this report are in force, as at September 1, 1971.

Recommendations

1. A comprehensive registration system for the blind is needed. Legislation should be introduced which would require Health Professionals to register, with a central authority, a visually handicapped person without delay.
2. The C.N.I.B. should improve its wage structure and working conditions for its blind employees in its Catering operations.
3. The C.N.I.B. should expand and improve its library service for the blind in Eastern Canada.
4. The C.N.I.B. and the Halifax School for the Blind should actively encourage and utilize the help of consumers of their services and consumer organizations such as B.R.A.M.
5. The C.N.I.B. should investigate impartially the charges of paternalism levelled by many against the personnel of the C.N.I.B.
6. The legal definition of blindness must be reexamined. A flexible definition is required although the present definition is adequate for the purpose of eligibility for financial aid.

7. Legislation should be enacted by the Province of Nova Scotia which would facilitate compulsory attendance of blind children at a suitable educational establishment. The Ontario legislation may be used as a model.
8. The Department of Education for the Province of Nova Scotia should take control of the Halifax School for the Blind. The Ontario legislation may be used as a model.
9. A school attendance system should be introduced which would keep adequate records of non-attendance by the visually handicapped.
10. The school admissions system at the Halifax School for the Blind is inappropriate and inadequate.
11. The School for the Blind should institute an adequate record system relating to medical and academic aspects of a students life.
12. A proper teachers training system for teachers of the blind should be provided for by the Department of Education. Whenever possible, only properly trained teachers should be allowed to teach the blind.

13. The initiation of Pre-School programs for the visually handicapped must be given priority. A six-point model is outlined in the text.
14. Educational facilities must recognize that the blind child usually possess emotional problems and proper psychiatric facilities must be provided for pre-schoolers and at the School for the Blind.
15. Vocational training for the blind must also be given priority. The activities of the Ontario Schools may be used as a Model.
16. The Halifax School for the Blind is inadequate and emphasis must be placed on the integration of the visually handicapped in the public school system. Only the small percentage of totally blind students should remain at the Halifax School for the Blind.
17. Per Capita spending by the Nova Scotia, and other Atlantic provincial governments on blind education should be at least doubled to bring Nova Scotia in line with other provinces.
18. Generally, those "blind" students that can be taught in print should be taught in print utilizing the public school system under the control of the Special Education Department of the Department of Education.

19. The Model White Cane Law should be enacted in the Province of Nova Scotia, thus providing safeguards for the blind and promoting employment of blind people.
20. The means test must be abolished and the blind should receive an allowance as of right.
21. The present levels of benefit are totally inadequate and should be raised so as to compensate the blind for their disability.
22. Forced re-payment of over-paid allowances must be removed from the system without delay.
23. Further research is needed into several areas of law relating to blind citizens rights and this should be funded by the Federal government.

Survey of the Blind in Nova Scotia

Shortly after embarking upon full-time research in June of 1971, it became apparent to all concerned that we would have to find some way of communicating with the blind population of this province. Until such a liaison was established, we could not be sure that our research would be relevant to the needs and desires of the blind. Indeed, prior to June of 1971 our only ongoing contact had been with the members of B.R.A.M. and we had no way of knowing whether B.R.A.M.'s complaints were the complaints of the blind people at large, and, furthermore, whether the general blind population would share the emphasis or priority structure for complaints established by B.R.A.M.

There were certain inherent difficulties in communicating with the blind as a whole in Nova Scotia. We did not have either the financial resources nor the requisite time to interview every blind person and so a Questionnaire was devised which was mailed to every registered blind person in the province. Another difficulty was experienced at this point. How do you establish, by mail, a rapport with a population that either cannot read or can only read with help? It was decided to mail a questionnaire set in large block type and containing very few questions. In all, thirty questions were asked and a large space was left at the foot of the form for "general comments". The results of this survey verified

the complaints of B.R.A.M., and, coincidentally, followed closely their priority structure. From our point of view, as legal researchers, the survey enabled us to focus only on the problems of the blind that the blind themselves consider to be the most pressing and in need of urgent attention.

It is estimated that the total blind population of Canada is approximately 30,000 although the total number of blind registered with the C.N.I.B. is approximately 27,000.¹ In 1970 there were 1,417 blind people registered with the C.N.I.B. in Nova Scotia. Through facilities provided by the C.N.I.B., researchers were able to mail a questionnaire to all of the registered blind. 470 replies were obtained, and, bearing in mind the fact that there are probably some people who are blind and not registered with the C.N.I.B., it is safe to assume that approximately one-third of the blind in Nova Scotia responded to the survey.

Of the 470 returned questionnaires, 328 contained opinions and comments in the general opinion section at the foot of the form. The forms reveal that the returns were obtained from males and females on an equal basis. Problems of correlation are compounded by the fact that a fair proportion did not answer all questions, nevertheless, it would seem that the returns reflected a broad geographic cross-section, that is, both urban and rural, and the income figures would tend to correspond to known averages.

The survey reveals that of the one-third of the blind population who replied, 38% were in receipt of an allowance under the Blind Persons Act. According to government figures, the overall total of B.P.A. recipients is 36%. Only 48 returns, that is 10%, disclosed that the blind person was employed. Seventy-five percent of the replies revealed an annual income of less than \$2,000.00. The average income disclosed by the survey is \$1,775.00 per year. The incomes ranged as follows:

INCOMES

Under \$1,200	-	151
\$1,201 - \$1,999	-	71
\$2,000 - \$2,999	-	29
\$3,000 - \$4,999	-	26
\$5,000 - \$9,999	-	8
\$10,000 - \$12,999	-	4
\$13,000 and over	-	0

It will be noted that 34% having an income of \$1,200 and below represents those persons in receipt of a Blind Persons Allowance (and supplement) suggesting that a high proportion of the blind look to government assistance as their only means of support.

While the statistics disclosed by the survey may or may not accurately reflect the plight of the blind in Nova Scotia, the comments in response to the questions did reveal extremely useful information. The issues or problems confronting the blind seem to fall into four main groups:

- (1) Financial,
- (2) Educational,
- (3) Rights and Status issues,
- (4) Miscellaneous.

Of those who commented, 40% stated, usually with reasons, that they needed more money. Approximately 40% of this group strongly advocated the abolition of the means test applied to blind people.

The next major cause for concern expressed related to education. There were a variety of complaints relating to the Halifax School for the Blind and, in addition, people of all age groups expressed resentment over the lack of vocational education suitable for blind people. All people who mentioned education were dissatisfied with existing services and pleaded for improvements in the nature and quality of education. The blind, it may be deduced, are of the opinion that the present system fails to equip a visually handicapped person in such a way that he is unable to help himself. We are impressed with the self-reliance shown by the blind respondents to the questionnaire and also by the persuasive arguments made that the education system does not, inter alia, foster the ability to become independent and employable.

A smaller group were concerned with what may be termed improvements in status. In addition, many felt that it should be made an illegal act to discriminate on grounds of physical or mental impairment in regard to employment. In short, many feel that employers should only be able to consider ability to do the job and not disability.

Among the miscellaneous comments were several criticisms of the C.N.I.B. In the main, these criticisms centred upon the lack of services. In the words of one blind person:

"The C.N.I.B. should provide more and better services."

Complaints were made of the inefficiency and inadequacy of the C.N.I.B. Library Service and the apparent lack of organized recreational facilities.

It may be appreciated that this survey enabled researchers to concentrate upon those areas that the blind perceive to be of greatest significance to themselves, namely, financial dependancy and education. As noted above, this survey tended to show that B.R.A.M. was, in fact, attuned to the needs of the blind community.

The rest of this paper will, therefore, concentrate upon the areas shown by the survey to be of most consequence to the blind people of Nova Scotia.

The C.N.I.B.

No study of this type would be of value without considering the role of the Canadian National Institute for the Blind (C.N.I.B.).

The Canadian National Institute for the Blind is almost synonymous with the word blind in Canada. However, contrary to popular belief, the records of the C.N.I.B. are incomplete as only those people who choose to register with C.N.I.B. are, in fact, registered. There is no compulsory registration of the blind population, nor is there a formal referral system through the public health department or doctors.

The C.N.I.B. was incorporated under the Dominion Companies Act in 1918 as a non-profit organization with two main purposes--to assist blind Canadians and to establish a blindness prevention program. Originally, a blind man had founded a braille library from his own collection and after his death in 1908, the library was moved to Toronto and co-ordinated by a Board of Directors. After the First World War, the Federal Government requested that this group train the war blinded and as a quid pro quo it would finance them. With headquarters in Toronto, the country was eventually broken into the present divisions--Newfoundland, Maritime, Quebec, Ontario, Manitoba, Saskatchewan, Alberta and British Columbia/Yukon. Within these divisions are district offices. The central office receives a federal grant which is used for administration and organization purposes. The divisions are

each responsible for the raising of funds provincially, municipally and through public donations. Some of the divisional income is contributed to the cost of national services.

Emanating from the request of the Federal Government to train the war-blinded, several services evolved from teaching braille and rehabilitative crafts, to vocational training and finally employment placement. The most successful employment project was the catering program which developed greatly during the depression and the war years. Another fundamental service of C.N.I.B. is its library service. In 1964, talking book cassettes were introduced as a more effective means of producing "books" for the blind. Postal service for the blind library users is free.

Apart from the work of field officers, all vocational programs are taught at headquarters, Toronto. Although the C.N.I.B. is organized at both a national and divisional level, it is apparent that centralization of facilities is a cause of many complaints made by the blind population of Nova Scotia. For example, if one cares to use the talking book service, it is necessary to select a great number of tapes from a very long typed list. This supposedly enables the staff to keep a continuous flow without much paperwork. However, the catalogue seems to be out of date and requires a sighted person to aid with selection. A great many complaints about damaged and unusable tapes were received in answer to our questionnaire.

The level of pay of the "Caterplan" blind workers is extremely low--the gross amount earned by 103 blind persons in the Maritime region employed by C.N.I.B. was \$285,714.00 (average 12 month period = \$2,773 per employee).² The very fact that C.N.I.B. is "synonymous with blind" sometimes seems to work detrimentally. All aid is funnelled through the C.N.I.B. structure with its inherent weaknesses and deficiencies. A closer look at Maritime Division is justified.

The major project has been the design and construction of new facilities in Halifax, on the site of the existing premises. Three blind persons were added to staff. The first full-time Employment Services Officer was appointed and from May to December made six placements. A Field Secretary whose job it is to visit the homes of the blind and in June a Rehabilitation Officer who works primarily with the newly blinded were hired. The C.N.I.B. catering service is attempting to make its operation more efficient. See the section on pre-school report for a discussion of the pre-school counsellor's function. See also the discussion of survey for further comments regarding the library service.

The recreational programs of the Maritime Division are run in co-ordination with Canadian Council for the Blind, a national organization of clubs for blind persons. The other aspect of C.N.I.B., its blindness prevention program, was carried out aiding 173 people at a cost of \$36,545.00 in 1971.

It is clear that the C.N.I.B. have taken bold initiatives in the past. It is also apparent that its staff in the Maritimes are sincere, dedicated and hard-working people. Having stated the overt attributes of the personnel, it must at once be noted that many of the blind, particularly the younger blind person, resent the C.N.I.B. It may be asserted that many blind people regard the "attitude" or "approach" of the C.N.I.B. through its officers to be unduly paternalistic.

Whether or not the staff of C.N.I.B. are paternalistic is largely irrelevant. It is sufficient to note that a significant number of blind people in Nova Scotia perceive the C.N.I.B. as a paternalistic entity.

An example of the type of "C.N.I.B. attitude" that many blind people find offensive is contained in a recent speech by a former Chairman of the Quebec Division of the C.N.I.B.:

"The terrible calamity of blindness cannot be overemphasized. The blind want not only sympathy but opportunities for establishing themselves as independent and useful social personalities. And who is to give them such opportunities but those of us who are blessed with the supreme gift of eyesight which they have lost?...." 3

One does not doubt the sincerity and devotion of the C.N.I.B. officers in Nova Scotia, but frequently their efforts are perceived as a form of paternalism by the consumer of the services. The time is ripe for the C.N.I.B. to embark upon a searching look at its relations with its client/consumer.

If this introspection does not take place the younger blind person may be permanently alienated.

Blindness - The Problem of Definition

Many people are unaware of the varying degrees of blindness, or, in other words, varying degrees of sight within the community of the "legally" blind. In Regulations passed under the Blind Persons Act, blindness is defined as,

"(2) A person is considered 'blind' if the visual acuity in both eyes with proper refractive lenses is 20/200 (6/60) or less with Snellen Chart or equivalent, or if the field of vision in both eyes is of a diameter less than twenty degrees.

(3) The diameter of the field of vision is to be determined by the use of

- (a) a tangent screen at a distance of one meter using a ten millimeter white test object; or
- (b) a perimeter at a distance of one-third of a meter, using a three millimeter white test object." 4

Visual acuity is a measurement of the smallest retinal image that can be appreciated by the human eye and is usually presented in the form of a fraction. The numerator designates the distance at which a given object can be seen by a given individual while the denominator designates the distance at which the object may be perceived by the normal eye. Normal vision is usually defined as 20/20 or the ability to see at twenty feet an object which can be seen at twenty feet by the normal eye.

The traditional definition of blindness has been criticized on the grounds that visual acuity and the revolving power of the lens are only two of the many salient variables which ought to be considered in measuring vision.⁵

Criticism has been directed at the use of the Snellen Chart for the purpose of measuring visual acuity. Such a Chart has no readings between the 20/100 and 20/200 range. Thus, anyone who measures less than 20/100 would be classified as "blind" even though his visual acuity might be better than 20/200. The significance of the difference between these two readings may not be important for the purposes of registering with the C.N.I.B. and for qualifying for the Blind Persons Allowance. It is recognized that, for such purposes, an arbitrary cut-off point must be found. However, for corrective purposes these readings are important and ophthalmologists use modified charts or closer distances to achieve more accurate readings.⁶

The definition cited above is incorporated into the regulations of the Blind Persons Act and forms the basic definition in all statutes concerning the blind. An approved oculist's certificate stating that the defective vision is 20/200 or less, is a prerequisite for a blind pension.⁷ This act, plus others such as the White Cane Act,⁸ the Blind Workmen's Compensation Act⁹ were instituted primarily through the efforts of C.N.I.B. Useful though such a definition may be in establishing a category of "blind" versus sighted people, it must be remembered that

within the "blind" classification, many have sight that is both useful and functional.

With regard to educational purposes, the measurement of visual acuity does not always indicate the type of program to which a visually handicapped child may be exposed. The one measurement of visual acuity is not always a true indicator of visual efficiency. A child with a visual acuity of 20/200 and who is therefore classified as "blind" may still be able to use vision as his primary source of learning. There may be others with a visual acuity of greater than 20/200 who have not been encouraged to utilize what little vision they do have to the maximum so that they may be taught in print.

For educational purposes, the term "blind" and the visually acuity measurement of 20/200 is not very helpful. It would be far more useful to obtain some sort of indication of the visual potential of a child with given readings, thereby encouraging him to make maximum use of his residual vision rather than impose an arbitrary Snellen definition. Such an indicator, it is felt, would assist the teacher in devising more appropriate and satisfying programs and approaches for each child on an individual basis.

In the case of a totally blind child, there is no question that he must be taught in braille, however, helpful guidelines for the educational management of partially sighted children were suggested by Dr. Gerald Fonda.¹⁰

Dr. Fonda defines partially seeing as:

Group I : Light perception to 1/200
 Group II : 2/200 - 4/200
 Group III : 5/200 - 20/300
 Group IV : 20/250 - 20/60

Dr. Fonda analyses "blindness" on a functional basis for the purpose of education and recommends the following:

Children in Group I should be taught in braille.

Children in Group II should be encouraged to use some size of type.

Group III and IV should be taught to use their eyes.

Group III children need assistance such as special classes, large type, recordings, tapes and individual instruction as well as optical aids.

Children of Group IV can usually compete in school as well as various occupations successfully with persons who have normal vision.

For the partially seeing child, magnification may be produced by the use of some sort of visual aid or by a method referred to as non-optical magnification. This latter type is produced by the simple method of advancing the viewer in relation to the object of regard. Thus, a magnification of 2x is produced by advancing from twenty feet to ten feet from the object of regard; a magnification of 10x is achieved by advancing from twenty feet to two feet.¹¹

The use of the non-optical method can be of considerable advantage in assisting partially seeing children in the public school classroom. Merely by moving the child from the back row

to the front produces a magnification of 4x while moving the chair to the blackboard can produce a magnification of 10x.¹²

Non-optical magnification may be produced by holding the paper close to the eyes. If the object of regard is held at seven inches from the eyes, a person with vision measuring 20/100 can read newspaper print, while a person with 20/160 vision can read typewritten print. If the distance is reduced to 3-5 inches, a person with 2/200 vision can read newspaper print while one with 20/320 vision can read typewriter type.¹³

The use of large print books is recommended for children where distant vision ranges from 2/200 to 10/200; where the child cannot read typewritten print at two inches or where greater reading distances may be mandatory as for mathematics. All other partially seeing children should be encouraged to approach the blackboard or to bring the print closer to their eyes.¹⁴

Another method for increasing visual efficiency has been suggested by Berraga.¹⁵ In this study, it is demonstrated that legally blind children could significantly increase their visual efficiency through a series of daily forty-five minute lessons in visual stimulation even though there was no change in near-vision acuity.

Although a child may be legally blind within the meaning of the Federal Act, he still might have enough sight to be educated in the public school system with only a small amount of special help. The definition contained in the Federal statute can only be regarded as fit for certain purposes. It is submitted

that the present definition is inadequate for the purpose of education. The problem of establishing a flexible definition for educational purposes as distinct from other purposes is not insoluble as is shown by this analysis. As will be revealed below, Education is an area of grave concern to the visually impaired. One of the basic flaws in the law is the Federal definition which, because of its inflexibility, lies at the root of the inadequate educational programs presently in being in the Maritime Provinces.

Until the present Federal definition is re-examined it is difficult to foresee any shift away from rigid categories of "blindness" to a more rational and functional classification which would take cogniscence of individual abilities, potential and differences.

It is submitted that the British definition of blindness as

"So blind as to be unable to perform any
work for which eyesight is essential" 16

is preferable to the Canadian definition because of its flexibility and reliance upon the functional assessment of the individual. Such a definition is particularly appropriate for educational purposes.

Legislation Dealing with Education of the Blind

In Nova Scotia, the Education Act¹⁷ establishes that every child in a rural community between the ages of seven and sixteen must attend school.¹⁸ However, section 81 provides an exception to this rule whereby blind children and certain others are not compelled to attend. This section states that where a child has a physical condition which renders attendance or instruction "inexpedient or impractical", he need not attend.

The Education of the Blind Act¹⁹ provides the method for placing a blind child in the Halifax School for the Blind. Section 2 of the Act lays down the maximum period of attendance while section 2(3) provides complete discretion to the Board of the School to remove a pupil. This enactment basically provides the method of application and the source of funds usually provided by the child's municipality in the cost-sharing program.

In Newfoundland, however, the Health and Public Welfare Act²⁰ provides that parents of blind children between the ages of seven and eighteen have a duty to have their children educated and trained.²¹ This statute also enacts an obligation on the part of the Deputy Minister of the department to inspect annually a school for the blind in another province, in effect the Halifax School for the Blind, and to make a detailed report to the Minister of Health, although this statutory procedure is never followed. In Prince Edward Island, the School Act²² states that all children between the ages of six and eighteen years must attend school²³ unless a physician certifies that his bodily or mental condition

prevents such attendance, and, furthermore, the Cabinet is empowered to make regulations providing for the education of the deaf, dumb or blind.²⁴ In New Brunswick under the Education of the Blind, Deaf, Mute and Deaf-Mute Persons Act²⁵ the Minister of Education grants an application for a child after one year's residence to attend either the Halifax School for the Blind or the Interprovincial School for the Deaf at Amherst, Nova Scotia, and the appropriate amount of compensation is paid. The Minister may²⁶ establish pre-school training centres for children under six.²⁷ The School Attendance Act²⁸ provides that all children aged seven to sixteen must attend school and it is the parent's duty to see to this except for illness or other unavoidable cause or where the Minister certifies in writing that the child should be exempted. In Quebec, the Education Act²⁹ states that every child between the ages of six and sixteen years must attend school³⁰ unless prevented by illness or infirmity.³¹

Ontario's Schools Administration Act³² establishes the rule that every child between the ages of six and sixteen years must attend school unless he is unable to attend by reason of sickness or other "unavoidable cause".³³ The statute goes further by providing that blindness is not an "unavoidable cause" if the child is eligible for admission to the Ontario School for the Blind. Thus, Ontario is the first province to enact a special section for the visually handicapped in the education system and to make provisions for them. In the Department of Education Act,³⁴ the Ontario School for the Blind at Brantford is brought under

the administration and control of the Department of Education. Further provision is made in the regulations for auxiliary classes in the public school system.³⁵ The Minister is empowered to establish braille classes for blind children and sight-saving classes for children whose limited vision will interfere with their school progress or endanger their vision if ordinary methods are used. The local board is to provide equipment for the special needs of the auxiliary class. Regulation 90 sets out the administrative aspects of the School for the Blind and the standard of teaching qualifications. It is to be noted that³⁶ a teacher who completes an in-service teaching program is granted a Specialist Certificate as a Teacher of the Blind. Thus, the blind are assured at least an equivalent expenditure and level of education as the sighted in Ontario since the Department of Education administers the school.

The Manitoba Public Schools Act³⁷ states "...every person between the ages of six and twenty-one years shall have the right to attend a school". In Manitoba, there exists also the Blind Persons and Deaf Persons Maintenance and Education Act³⁸ which allows the government to expend such monies that it deems expedient for the maintenance and education of blind residents under 21. This includes their maintenance in institutions outside the province as there is no Manitoba school for the blind. Transportation and clothing expenses may be covered by the government.

Alberta has a similar clause in its School Act³⁹ in that every child between the ages of six and sixteen shall attend school unless excused⁴⁰ by virtue of an inspector certifying that he is under competent instruction at home or he is unable⁴¹ to attend by reason of sickness or other unavoidable cause. Section 138 of the Act allows a school board to provide special education by operating special schools or classes, or by making a grant in order to send a pupil to a ministerially approved special school. Under Section 158, if a pupil attends such a school with the approval of the board and he is required to live away from his residence, the board may pay this cost.

The British Columbia Public Schools Act⁴² provides compulsory education of all children between the ages of seven and fifteen except where the child is prevented from attending school by sickness or any other unavoidable cause.

Saskatchewan approaches this issue by making education compulsory for the blind child between the ages of seven and sixteen if he is physically and mentally fit.⁴³ Furthermore, a parent or guardian is penalized by a possible conviction and fine of \$25⁴⁴ if he doesn't allow his child to attend.

The expense of educating a blind child may be taxed on the municipality or the parents to a maximum of two-thirds. Section 13 of the Act enables the Minister to hold an inquiry into any matter connected with the administration or management of an institution set up under the Act. Although the Act provides

for the establishment and administration of an institution, no such school has yet been instituted. Until one is built, the Education of Blind and Deaf Children Act⁴⁵ provides for the Minister of Education to make agreements with another province, institution or corporation to provide education for the blind residents of the province.

The Nova Scotia legislation reveal two interesting points:

- (1) There is a minimal amount of government involvement and regulation, and
- (2) By the power of expulsion, the Halifax School for the Blind can effectively deprive a blind child of an education.

The Ontario legislation, with its reliance on direct governmental control and the establishment of auxiliary programs of instruction for the visually handicapped in the public school system, is clearly preferable to the legislative approach in Nova Scotia.

Of particular concern to members of B.R.A.M. is the fact that despite the present legislation in Nova Scotia, or, perhaps, because of this legislation, some blind children do not attend either the Halifax School for the Blind or any other educational institution. Thus, in an age when education is regarded as essential for the attainment of a normal and fulfilled life, it seems that each year some blind children within the province will be deprived of even a rudimentary education. The following is an analysis of the present situation in Nova Scotia.

School Attendance

In Nova Scotia, subject to the Education Act, every child between the ages of five and twenty-one years has a right to attend school in the area in which he resides.⁴⁶ Further, subject to certain exceptions, every child between certain stipulated ages, is compelled to attend school in the district in which he resides.⁴⁷ Parents or guardians of such children are directed to see that they do so attend.⁴⁸ A penalty is imposed on those parents or guardians who fail in this duty. However, the right of a child to attend school and the obligation imposed on him and his parents or guardian is qualified by section 81(1) of the Education Act. A child is not required to attend school and his parents or guardians are freed of any liability to penalty if the physical condition of the child

" . . . is such as to render his attendance at or instruction in school inexpedient or impractical." 49

In the case of a visually handicapped child, section 81(1)(a) has been interpreted to mean⁵⁰ that if the school in his section does not have the facilities (either the material set-up or the teachers) to meet his special educational needs, then his education at that school becomes inexpedient and impractical. When this happens the child loses his right to attend that school. Since he is deprived of that right, he is not compelled to attend that school and his parents or guardian are freed of the liability imposed by section 80.

No public school in any school section in Nova Scotia has the facilities to meet the special educational needs of blind children.⁵¹ The Halifax School for the Blind is the only school in the province, indeed in the four Atlantic Provinces, which provides the necessary facilities. However, a visually handicapped child who is deprived of the right to attend the school in the section in which he resides does not automatically acquire the right to be educated at the Halifax School for the Blind or any other special school. No such right is given by either the Education Act⁵² or the Education of the Blind Act.⁵³ Neither those Acts nor the Act which created the Halifax School for the Blind⁵⁴ directs that school to admit all visually handicapped children who may not be educated in their own school sections. The Board of the Halifax School decides its own admission policy.⁵⁵ The criteria to be used in establishing such a policy are not provided for by statute. The administrators of the School may accept or reject any application for admission as they see fit.

The criteria applied by the administrators in deciding eligibility is the needs of the child applying for admittance. These needs include cultural, social and emotional factors as well as educational matters. The availability of residential space at the school and, to a lesser extent, the visual acuity of the child applying for admission, appear to be the only factors which delimit the admission policy of the School. In actual practice, it appears that the only reason why applicants have been rejected is that the

School lacked residential space. Such rejections numbered five for the 1971-72 school year.⁵⁶ No one seems to know what alternative provisions, if any, have been made for these five children.

Blind children who cannot be educated in their own school section are not required by law to attend the Halifax School for the Blind. Parents of visually handicapped children may choose to send or not to send their child to the School at their own discretion. If they choose not to do so, their decision is protected by law. Thus, it is possible for a visually handicapped child to grow to adulthood without ever having been exposed to any educational institution.

Approval of this state of affairs is given by officials of the Department of Education⁵⁷ and the Administrator of the School⁵⁸ on the grounds that it is terribly cruel to remove a blind child of tender years from the sanctuary of the home environment against the wishes of the parents. Parental rights in this instance appear to take precedence over the right of the child to be prepared to take his place in the mainstream of society.

There are a number of visually handicapped children of school age within the province who are not being educated.⁵⁹ We were unable to learn from any authoritative source the exact number or educable status of such children. Officials of the C.N.I.B. know there are a number of such children who are not attending school but do not keep any record of such non-attendance.

If they did keep such a record, it would not reveal the non-attendance of blind children who were not registered with the C.N.I.B. at all.

Officials of the Halifax School report that there are a number of blind children in the province who are not attending school. Such knowledge is gained when the Superintendent visits the parents of blind children each summer with the hope of persuading them to send their children to the School. If the parents decide not to do so, the matter is dropped. Furthermore, two children were rejected by the School in the 1970-71 school year, the number rising to five for the 1971-72 school year. These children may or may not be attending some other school.

There is the possibility of the non-attendance amongst blind children who are not registered with the C.N.I.B. or who do not come to the attention of officials of the Halifax School. We could not learn of such non-attendance from the Provincial Supervisor of Attendance as he does not keep that type of record. It would appear that the entire system of supervision of attendance precludes the collection of such information. The Provincial Supervisor explained that, in accordance with the Education Act, attendance officers are appointed at the local level. Appointees are usually retired persons or persons who have other full or part-time employment. They are paid a stipend of \$100.00 per year. They are primarily concerned with the non-attendance of children registered at a school although they do inquire into the non-attendance of children who are not registered at any school if

their attention is drawn to such cases. Mr. Biairsto does not request the reports of these local attendance officers although he is empowered to do so by the Act. The reason for this is that officials of the Department of Education feel that the question of school attendance is a problem which should be dealt with at the local level. Another reason given is that, as well as acting as Provincial Supervisor of Attendance, Mr. Biairsto also acts as Director of Provincial Examinations. This dual role does not provide him with ample opportunity to supervise school attendance throughout the province.

Two local attendance officers⁶⁰ report that, should their attention be brought to the case of a handicapped child who is not attending school, they would work with a social worker or the family doctor to attempt to persuade the parents to send the child to the Halifax School for the Blind. If the parents were to refuse, they would respect the parents' wishes and not pursue the matter. They report that no such case has been brought to their attention in recent years.

To conclude, it would appear that there are a number of visually handicapped children in Nova Scotia who are not attending any school. Their exact number or their educable status is not recorded by any central, authoritative body. Of greater concern, however, is the fact that the law does not require such children to attend any school. If our society continues to allow visually handicapped children to remain totally uneducated, it is difficult to envisage such a child ever emerging

as a useful member of society. It is safe to suggest that such an individual will be difficult to integrate into society in later life and, therefore, is likely to remain unemployed (or unemployable) for most, if not all, of his life.

Notwithstanding the wishes of some parents, it is submitted that the better approach to this problem would be to ensure that every blind child receives an adequate education that is sufficient to equip him to become a useful member of society. The legislation should be amended to bring about compulsory education for all visually handicapped children within the province.

Pre-School Programs for the Blind

The objective of this part of our research was to assess the need for a viable pre-school program for blind children; to examine the existing pre-school programs and to make recommendations in the light of these findings.

Pre-school years may be defined as that period in the blind child's life between the time his visual handicap is recognized and his entry into school.

Our efforts were directed to the examination of the importance of the pre-school years of the visually handicapped child through our interviews⁶¹ and readings.⁶²

One of the most serious problems with which the staff of the Halifax School for the Blind must cope is that of the multi-handicapped student. Along with the visual handicap, many of these students show a lack of motivation, are slow learners or display undesirable behavioral patterns or language disorders. Further complications may arise from a condition referred to as hyperkinitic syndrome,⁶³ a nebulous term signifying minimal brain disfunction, hypersensitivity or a short attention span. Such children are not necessarily, and very often are not, mentally retarded. However, children suffering from this disability often display personality disorders or undesirable behavioral patterns and an inability to develop intellectually, socially or emotionally at an acceptable or "normal" rate, or, show an acceptable "normal" pattern of development.

Experts⁶⁴ cite three basic causes for the emergence of multi-handicaps in the visually limited child:

- (1) Deprivation of sensory stimulation in early months and years;
- (2) Parental attitudes of overprotection and rejection;
- (3) Decreased infant mortality rate due to improved medical technology.

The exact incidence of such disorders among those children enrolled at the Halifax School for the Blind during the past year is not known. In most instances the child does not receive a psychiatric or psychological assessment prior to his admission to the School. Nor is he subjected to such assessment on his admission, since the School does not employ the services of the required professionals. However, Mr. Allen⁶⁵ places the incidence at approximately 40-45% of the total enrollment. Dr. Parkin⁶⁶ feels this is a modest estimate and that a more accurate one would comprise 70-75% of the total. It is submitted that the exact number is not important since even the more modest estimate is too high in comparison with the incidence similar disorders among children who are not physically handicapped. The Alder Report⁶⁷ suggests that the incidence of exceptionality in the total Canadian population of those nineteen years of age and under is about 10-15%. If we compare these latter figures with the incidence of exceptionality observed in visually limited children, we can see that they are at least four times more likely than the

sighted to develop those symptoms. Dr. Parkin agrees that visually limited children are more likely than the sighted persons to develop symptoms of exceptionality. A similar conclusion was reached by Roeske whose study

" . . . supports the hypothesis and the clinical evidence in the literature supporting the high probability of emotional disturbance in all visually limited children." 68

The relationship between personality or behavioral disorders and sensory deprivation can be easily understood if we examine the way in which a child learns and develops. In his study on the effects of congenital and prenatal sensory deprivation on personality development, Dr. David Freedman used the model developed by Escalona.⁶⁹ This model developed the theory that behavior and personality are the direct result of the interaction between the organism and his environment. It goes one step further by taking into account the fact that the organism is never in a study state, but is constantly changing due to the maturation of the nervous system, the influence of past experiences and ongoing visual processes. The term "organismic state" is used to designate these influences and concludes that it is this which interacts with environmental influences to create a pattern of "concrete experiences" to which the developing individual makes adaptations. Personality or behavior or a new "organismic state" results from these adaptations.

Blind children learn and develop in the same manner. However, in their case, one mode of intake is distortion of visual data. This is an important limitation since the organism's ability to register and process sensory input is a major factor in its interaction with the environment. Sensory deprivation, therefore, may retard or distort the creation of the new organismic state, thus increasing the incidence of personality disorders in visually limited children. However, this limitation of visual intake need not, of itself, lead to the development of such disorders. From the results of their studies, Escalona and Freedman concluded that many different combinations of organismic states and environmental influences could produce the same effect on personality and behavior. If this is so, they concluded, then appropriate adjustments in the environment may compensate for the organismic factor to promote the psychological health of the visually limited child.⁷⁰

What the visually limited child needs, then, is the provision of some viable alternative to sight by his environment. However, if these alternatives are to be effective in promoting his wholesome development, they must be provided from the moment his handicap is recognized. Experts agree that the first years of a child's life are important in terms of emotional attitudes, habit formation and social orientation.⁷¹ Patterns of behavior may be set by the age of three and most certainly are set by the age of five. Since it is the family, in most cases, which has the responsibility for the care of the child in his early years,

the importance of the role of the family in providing the necessary alternatives is inestimable. After an intensive five-year study of young blind children, it was concluded,

"All the components for the healthy personality development of any child are crucial for the blind child because his capacity to master his environment is definitely related to his security in his family and the understanding that family members have of his needs. The damage that is done by prolonged failure to provide satisfaction of these needs is apt to be permanent. It can only be partially alleviated by later treatment." 72

The importance of the role of the family in promoting the physical and emotional well being of any child has long been recognized in our society.⁷³ In the visually limited child, the family assumes even greater importance. The blind child is almost totally dependent on the members of his family for any contact with his environment. Thus, his exposure to a variety of experiences and his chances of developing a healthy attitude towards himself as part of a family and later, society as a whole, are largely determined by the attitude and behavior displayed by his family from the moment his limitation is diagnosed.⁷⁴

Acknowledging the importance of the role of the family in creating the type of environment which is conducive to the development of a psychologically healthy visually limited child, we attempted to discover the parental attitudes to which the children at the Halifax School for the Blind had been exposed. Precise family histories of the children enrolled

at the School were not available. Mr. Allen, the School Superintendent, acknowledged that the lack of such information reveals a defect in the admissions system. He feels that such knowledge would assist in devising a suitable approach to be used by the staff of the School in their care of the child. It is also his opinion that the time has come for the School to request that concise family histories accompany all application forms.

From their long association with visually limited children and their parents, Mr. Allen and Mr. Legge (the Principal of the Halifax School for the Blind) have witnessed the correlation between parental attitudes and the psychological development of the child. They have found that, very often, parents of visually limited children suffer from a very real guilt complex. Such parents view blindness in their child as a manifestation of God's vengeance being meted out on the child because of their own sinfulness. Such guilt feelings are often manifested in either rejection or over-protection of the child. Neither manifestation is conducive to providing the stimulating environment so necessary for the healthy development of the child. It is not uncommon for the School to admit children who have spent a major part of their early years confined to a play pen or tied to a chair. Such children, already deprived of concrete visual intake are denied, further, of tactile or kinetic stimulation.

A more detailed and concise explanation of parental attitudes was reported by Sommer.⁷⁵ After her extensive study she found five major parental reactions to their blind children:

- (1) Genuine acceptance of the handicap and devotion to the child;
- (2) An attitude of denial that either parent or child is affected by the handicap;
- (3) Over-protection and excess of pity;
- (4) Rejection disguised as over-solicitousness and anxious concern; and
- (5) Overt rejection.

The children of the parents studied displayed behavior which was closely related to the reactions of their parents:

- (1) Wholesome compensatory behavior and hypercompensatory behavior;
- (2) Denial reactions;
- (3) Defensive behavior;
- (4) Withdrawing tendencies; and
- (5) Non-adjustive reactions.

Sommer concluded:

" . . . visually handicapped individuals frequently develop a wide variety of attitudes and feelings peculiar to themselves as a natural outgrowth of a social environment which rarely gives them the understanding and motivation essential for the development of a wholesome personality. . . . frustrations or maladjustments or emotional disturbances result more frequently from the social attitudes and conditions surrounding the blind person and brought about by the presence of the handicap, than from the sensory disability itself." 76

The authorities hitherto referred to agree that if we are to do more than merely battle symptoms, we must firstly attempt to reshape the environment to which the visually handicapped child is exposed. Attacking one manifestation of a personality disorder, it is said, usually results only in transferring it to another manifestation. What is needed is an attack upon the primary cause of the disorder rather than the disorder itself.

Hitherto in Nova Scotia the approach has been corrective rather than preventive and even the corrective measures⁷⁷ are quite inadequate. Further, existing community agencies are not being utilized to the maximum in any efforts to provide an aggressive preventive program. Such a program would include:⁷⁸

1. Provision of a trained pre-school counsellor who has a clear understanding of the needs of both the parent and the visually handicapped child and who is capable of providing family-oriented counselling; one who has been trained to recognize the symptoms of hyperkinetic syndrome.
2. The creation of an efficient communication system which permits prompt referral by the person, either the family doctor or the Public Health Nurse, recognizing the visual handicap and the counsellor.
3. Frequent visits by the counsellor to the family of the child to provide the necessary support, advice and encouragement and materials.
4. Establishment of an Association of Parents of Visually Handicapped Children so that parents will know of others who share their problem and with whom they can share knowledge and gain information.
5. Early referral to a regional mental health clinic if unusual behavioral symptoms are recognized by pre-school counsellors trained to recognize such symptoms.

6. Establishment of pre-school classes staffed by trained personnel and enrollment of the visually handicapped child in these classes, preferably at the age of 7 and preferably with sighted children.

Not one provision in this suggested program is provided at the present time in Nova Scotia.

The C.N.I.B. maintains a pre-school program. Unfortunately, this program has not and is not (in its present form) capable of achieving the desirable results.⁷⁹

Mrs. Boyd has held the position of pre-school counsellor for the C.N.I.B. for the past year. She provides her counselling services in Nova Scotia and Prince Edward Island. Although Mrs. Boyd is a warm, approachable and dedicated woman, she has not been trained to counsel families of handicapped children. Prior to assuming her present position, she worked in a drug store for ten years. Neither before or after becoming a counsellor was she offered the opportunity to take part in any counsellor training program. What knowledge she does have of the problems with which she must deal has been acquired through her own readings, on her own initiative. In short, the one pre-school counsellor in the province has not been trained to discharge appropriately, the grave responsibilities of her position.

There is not, in Nova Scotia, an efficient, organized system of communicating to the pre-school counsellor knowledge of the existence of new cases of children with visual handicaps as they are diagnosed. Such knowledge is not automatically

communicated to the counsellor when it is acquired, but must be sought out by her. She learns of the existence of a visually limited child primarily through inquiries made of the district Public Health Nurse or the regional C.N.I.B. administrators.

The Department of Public Health has for their purposes divided the province into eight health units. Each unit might comprise one, two or three counties, depending on the geographical location and the population of the counties concerned. Among the staff of each health unit are a number of Public Health Nurses who have the duty, inter alia, of visiting the home of each newborn child at least once during the first year of his life. It has been the policy of these nurses to make these initial visits as soon after birth as possible. Consequently, most initial visits are made during the baby's first month of life. Subsequent visits are made if the nurse feels they are required and usually an attempt is made to visit all babies at the end of the first year. During these visits the nurse examines the visual response of each child. These examinations enable the nurse to recommend referral to a doctor or the C.N.I.B.

The pre-school counsellor makes periodic visits to each health unit. The Public Health Nurse in each unit informs her of the names of any children with visual defects who might have been discovered since her last visit. The counsellor then visits the homes of the visually handicapped child before moving on to the next unit.

If the visual handicap is discovered subsequent to the required visits of the Public Health Nurse, this information may be communicated to an agent of the C.N.I.B., either by the parents themselves or some interested party.

Defined in this way, it would appear that the C.N.I.B. pre-school program has the potential to achieve the desired results. However, it must be concluded that the results of this program have not been favourable. A large number of visually limited children are still arriving at the Halifax School for the Blind displaying personality disorders or symptoms of the hyperkinetic syndrome. The pre-school counsellor herself agrees that the program is to some extent inefficient. Very often on her return visits to certain homes, she finds that parental attitudes have not changed and that the parents have not implemented the approaches she had suggested. Furthermore, support for the conclusion that the existing program is essentially ineffectual comes from the Superintendent of the School for the Blind. During the summer months he attempts to visit the parents of every four or five year old visually handicapped child in an attempt to encourage them to send their child to the School. Even at this late stage in the child's development he has frequently found the existence of unwholesome parental attitudes and approaches.

The failure of the existing pre-school program may be attributed to several factors other than lack of a trained counsellor. Firstly, there is the communication gap which exists between the counsellor and the persons who recognize the visual

defect or the parents of the handicapped children. The counsellor reports that in her follow-up work at the Halifax School, she has discovered the presence of children whom she had not seen in their pre-school years. The possibility of this occurring can be understood if we examine closely the way in which information is collected by the C.N.I.B. pre-school counsellor. It is possible that her primary source of information, the Public Health Nurse, may not recognize the presence of the handicap. In such a case, it follows that the nurse would have no information to pass on to the counsellor. If the handicap is discovered by someone other than the nurse, it may not be reported to the C.N.I.B. Diagnosis of the visual handicap made by a family doctor or ophthalmologist are not always reported. In some areas where the district agent of the C.N.I.B. has established a good working relationship with the health professionals, he does learn the names of newly diagnosed visually limited children - which information is passed on to the counsellor. However, there is not a general policy of referral by the members of the medical profession to the C.N.I.B. The ophthalmologists and the supervisors of the low vision clinics of Halifax report that their only contact with the C.N.I.B. is made when the patient is unable to pay for any eye glasses which might be prescribed!

A further communication gap exists in the Halifax area where the C.N.I.B. counsellor has not established a working relationship with the Department of Public Health. Mrs. Ackers, the Supervisor of Public Health Nurses reported that she has

never met the C.N.I.B. counsellor and has never been asked for information regarding visually handicapped children living in the City. The C.N.I.B. counsellor admits that she has never requested such information from the nurses in this area. This situation is particularly tragic since this is the largest urban center in the province. The majority of known visually handicapped children live in this area; the number of cases unregistered with the C.N.I.B. is not known.

Another cause of failure of the program must be attributed to its inadequacy. The counsellor has a caseload of approximately seventy children. About 60% of these reside in Nova Scotia while the remainder reside in Prince Edward Island. She attempts to visit each child every two months but makes no visits at all during the winter months. In the interim the parent may have no communication with the counsellor. Nor is there any type of parents' organization or any other community agency to which the parents may turn in the counsellor's absence. This is a serious defect when one considers Sommer's analysis of parental reactions⁸⁰ and the detrimental effects to the child of certain of these reactions. In short, parents need more support and reinforcement than is now being provided.

Another cause of failure of the pre-school program is the lack of personnel trained to recognize the symptoms of the hyperkinetic syndrome. According to Dr. Parkin, the emergence of such symptoms should be recognized and treated in the early years of the child's life. This defect has results of far-reaching

consequences and affects not only visually limited children but also children who have normal vision. However, since teachers in the regular school find it very difficult to deal with the manifestation of the syndrome,⁸¹ the child displaying such symptoms who happens, also, to have a vision problem is usually transferred to the Halifax School for the Blind. That School, however, does not maintain the services of a trained psychiatrist or teachers who are trained to deal with such problems. The services of the Child Guidance Clinic located near the School are seldom used.⁸²

Another major defect in the present pre-school program is the lack of any organized pre-school classes for visually limited children. Such classes could act as a community-based resource center to which the parents could turn in the absence of the pre-school counsellor. One reason for this is the relatively few children involved and the wide geographical distribution of visually limited children would tend to make such classes somewhat costly. However, there is much to be gained by enrolling visually limited children in pre-school classes with normally sighted children.⁸³ There are several such classes already existing in the province. Those classes which are run on a non-profit basis may receive fifty percent of their operating expenses from the Department of Public Welfare.⁸⁴ The Administrator of that section of the Department⁸⁵ reports that his Department gives financial assistance to eleven such classes located throughout the province, five of them in Halifax.

He reports there are no visually limited children enrolled in any of these classes, however, he did promise to give serious consideration to ideas which called for financial assistance from his Department, to any pre-school class which did accept a visually limited child. It is submitted that if the Administrators of the Halifax School for the Blind or the C.N.I.B. were to take on the responsibility of encouraging such children to enroll in these classes, offering necessary materials and advice, then the Department of Public Welfare would meet the financial costs incurred.

The general ideas of this part of our research were submitted to the Superintendent of the Halifax School for the Blind and the Director of the C.N.I.B. They both acknowledged the importance of the aggressive pre-school program for visually handicapped children. Mr. Allen declared that some years ago he attempted to organize such a program but the C.N.I.B. assumed the responsibility and the School took no part in it. He feels that any pre-school program should be organized under the sponsorship of the School. In this way, he says, there will be continuity between the pre-school and school years for those children who enter the School for the Blind.

Officials of the C.N.I.B. feel their group should assume the responsibility for organizing a pre-school program. Recently, following a conference called by the Blind Rights Action Movement to discuss the problems of the blind,⁸⁶ Mr. Hill wrote to the parents of blind children asking them if they would

be interested in belonging to a parents' association. To date, the response has been poor, but those who did respond evinced enthusiastic favour for the proposal. Personal contact with the parents by either the pre-school counsellor or the district agents of the C.N.I.B. regarding this matter has not been undertaken to date.

We strongly recommend that a structured and viable pre-school learning experience be instituted along the lines of the six-point program mentioned above. Such a program should be administered by the Halifax School for the Blind in conjunction with the C.N.I.B. More importantly, visually handicapped children should be encouraged to use pre-school centres presently existing for normal children. It would seem that financial assistance would be forthcoming.

It is important that an effective and efficient province-wide "early warning system" of communication be implemented, thus co-ordinating the existing fragmented services. Appropriate and speedy channels must be created for cross-referral of the visually handicapped to mental health facilities.

Reform should also emphasize the family of the visually handicapped child. The family must be actively involved and an Association of Parents of Visually Handicapped Children must be given priority.

In short, if later attempts at education and integration of the blind into our community as useful, functioning citizens are to be successful, then a comprehensive program for visually handicapped pre-scholers must be implemented without delay. The six-point program proposal (above) contains those elements necessary to ensure adequacy. The present system is totally inadequate.

The Halifax School for the Blind

The Halifax School for the Blind is the Maritime school for the blind as students come from all four of the Maritime provinces. The school is a private corporation run by a Board of part-time Managers, none of whom are blind. The per-capita grant from the different provinces is \$2,300.00 which represents 93 percent of the operating cost⁸⁷ with the residue collected from charitable donations. The Maritime School for the Deaf in Amherst, Nova Scotia, which is completely run by the Department of Education receives a \$3,800.00 per capita grant.⁸⁸ The Ontario School for the Blind in Brantford receives a \$5,800.00 per capita grant from the Ontario government.⁸⁹

The present physical facilities are inadequate. The inner core of the school is 100 years old, but major improvements were made in 1939. Both living space and classroom space are cramped.

Presently there are 165 students and 25 full-time teachers which makes a student-teacher ratio of 6.6 : 1.⁹⁰ In Brantford, by comparison, the ratio is 5.2 : 1.⁹¹

There are 55 students officially considered to be "multi-problem" students.⁹² That is, they have other problems besides being blind. The school does not have a staff psychiatrist or social worker trained at handling multi-problem children. Implicit in the school's philosophy is that the mentally retarded and disturbed blind students, although

requiring specialized training and supervision, are expected to function normally and efficiently within the same social framework as other students.

Basically the curriculum of the Halifax School for the Blind is the same as that of the public schools in Halifax. The only problem is the student at the former is somewhat different.

One of the first problems in educating the blind is in assessing their ability to learn. The Halifax School for the Blind claim that there are no reliable tests to give their blind students to measure their learning quotient. Thus, the usual procedure is to put a student in the auxiliary stream and watch his progress. The auxiliary stream is the avenue for slow learners. This technique, it seems, will work only for the self-motivated student, but for those who are late developers, this method seems rather crude.

At present, the School for the Blind teaches only one vocational trade and that is piano tuning. Piano tuners are well paid, however, the school records reveal that in the past ten years they have graduated only two piano tuners. The school at one time taught, inter alia, mop-making, mattress-making, and broom making, but technology has taken over these jobs and the school has failed to find substitute trades.

Some schools have begun to produce expert dictaphone typists and data processors and also, upon further training, computer programmers,⁹³ dark-room technicians for photography⁹⁴ and X-Ray developing.

There is no vocational training offered at the Halifax School for the Blind.

Another grave problem in educating the blind is finding trained teachers. No Teachers' College in Canada offers a course to train teachers to handle students with a visual handicap. The principal of the Halifax School informed researchers that he gave his four new teachers in year 1970-71 a two-week course on how to read braille, before school commenced in the Fall.

There is a teachers' college for teachers of the blind nearby, namely, the Perkin's Institute in Boston. The Ontario School for the Blind has their own program which seems better than the Halifax system. At that school, the new teacher is required to take a two-year course, which must be successfully completed before that teacher is considered a "specialist" in teaching the blind. During the first year, the teacher attends nightly seminars. During the second, his teaching load is minimized as he must attend classes in teacher training every afternoon.⁹⁵

It should be noted that at the Ontario School for the Blind, they are presently training teachers from the Toronto School Board. It is planned that these teachers will return after their training and thus be able to handle the blind but otherwise normal students in the public schools.

Another interesting innovation at the Ontario School for the Blind is a recently instituted program called "Independent Living". The purpose of the program is "to better prepare the graduates to cope with the need to live independently in their

home communities once they leave the sheltered environment of the school."⁹⁶ The senior students who take the program spend approximately three months living in apartments off the school grounds. In this environment, they have to buy their own groceries, cook meals, wash dishes, scrub floors, and perform other necessary duties required to keep a home.

It has recently been suggested that the Blind be moved to the Maritime School for the Deaf in Amherst. Such a suggestion can only be seriously contemplated in the absence of knowledge of recent studies in other jurisdictions that offer alternate modes of teaching in an integrated setting. Integrated, that is, in the normal public school system as opposed to "integrated" with other defective children. In addition, it seems to be a retrogressive step to move blind children to a rural setting when society is rapidly urbanizing. Surely, it is preferable to instruct those blind children that require an institutionalized setting in an urban environment in which extra-curricular activities may be more related to a reality which the blind student is more likely to encounter immediately upon graduation. C.N.I.B. statistics reveal that most blind people below the age of 21 years are from Halifax with Industrial Cape Breton a distant second. Those counties adjacent to Amherst boast less than one dozen registered blind of school age.

Approaches to Education

For educational purposes, visually handicapped children have been recognized as those for whom, because of their visual condition, some modification must be made either in the materials used or the curriculum followed, or both.

As was discussed earlier,⁹⁷ the traditional definition of "blind" does not adequately reflect the visual efficiency of the visually handicapped person. For this reason, the term "blind" will be used to designate those children whose visual handicap is such that they are unable to use vision as a primary source of learning and must, therefore, be taught in braille.

The term "partially seeing" will be used to designate those whose visual handicap is such that they may use vision as a primary source of learning and may, therefore, be taught in print, even though their visual acuity is 20/200 or less with the best correction.

In the Maritime provinces at the present time, all blind children must be taught in the traditional residential setting. The only qualified teachers and the only special materials needed to teach blind children are located at the Halifax School for the Blind. Further, that School has taken on the responsibility of providing an education for a number of partially seeing children. Presently, approximately 25% of the students enrolled at the School are taught in braille while 75% are taught in print. Of the latter group, approximately 25% have a visual acuity of between 20/50 and 20/200.⁹⁸

Currently in the Maritimes, no blind children are being taught in the public schools while some partially seeing children are. Students who wish to take Grade 12 may do so in the public high school after completing work at the Halifax School for the Blind. The exact number of partially seeing children enrolled in the public school system is not known. Officials in the Special Education Department of the Department of Education⁹⁹ report that they have no record that any such children are, in fact, enrolled in any public school in Nova Scotia. The reason for this appears to be that the Department has no need for such information since they make no special provisions for visually handicapped children. With respect, it appears that the approach of the Department of Education concerning such children is rather crude in that if the child does not do well sitting in the front row, then he should perhaps be sent to the Halifax School for the Blind. The Department of Education does not provide itinerant teacher service, large print books, tape recorders or any other service which could permit the child to attend school in his own neighbourhood.

Our questionnaire and interviews revealed a number of partially seeing children who are being educated in the public schools. It appears that such children do well because of parental encouragement and the special interest and attention shown by the individual teachers to whom they have been exposed rather than through the direct intervention of the Special Education Department.

Blind and partially seeing children of other jurisdictions are being educated in settings other than the traditional residential one. The American Foundation for the Blind has long recognized three types of educational settings for visually handicapped children:

- 1) Education in a public or private residential school for the blind.
- 2) Education with the sighted in public or private schools with a resource or special class teacher available during the entire school day.
- 3) Education with the sighted in public or private schools with itinerant teaching service available at regular or needed intervals. 100

The residential school setting segregates visually handicapped children from their seeing peers. The "resource room" and "itinerant teacher" settings provide for varying degrees of integration,

The resource room which may or may not serve as the home room of the visually handicapped child is designed, through the provision of special materials and teachers, to meet the special needs of the child within the public school system. In this setting the integration of the blind child into classes with his sighted peers can be controlled in accordance with his needs and abilities.

The itinerant teacher setting provides the most highly integrated method of educating visually handicapped children. In this setting the child may attend the public school in his own district. Specially trained teachers travel to those schools

where visually handicapped children are enrolled. They assist the regular teachers to plan a program for each child; they provide the necessary material and special instruction at either specified periods or when needed. Such instruction would include the teaching of all those skills specifically necessary for visually handicapped persons.¹⁰¹

There appears to be two schools of thought in this province concerning the relative merits of the residential and integrated settings. Those involved with the public school system¹⁰² agree, generally, that the public schools should play a larger part in the education of visually handicapped children. These educators view the integrated setting as the most advantageous in that it permits the handicapped child to remain at home with his parents; it provides maximum opportunity for their socialization with their sighted peers; it emphasizes the child's similarities to "normal" children rather than his differences and lastly, it permits the handicapped child to be educated in an environment which better approximates the one he will meet in adulthood. They acknowledged the fact that very often a handicapped child is rejected by his more "normal" peers. However, it was explained that this rejection cannot be overcome by segregating the handicapped child. The view that was most often emphasized is that it is only in an integrated setting that mutual understanding and acceptance between the visually handicapped and sighted could develop.

In spite of their views concerning the education of visually handicapped children, none of those public school educators who were interviewed pleaded for a change in policy.

Some reasons for this are:

- 1) No parents have requested that their visually handicapped child be educated in the public schools.
- 2) In the past, special education programs have been cut whenever the Department of Education was required to make budget cuts. It would not be fair to expose the visually handicapped child to any program unless special guarantees were given that such programs would not be cut.

Mr. Nobel emphasized the fact that his Department must work within the resources available. At present, he stated, the province simply cannot afford to initiate any new special education programs. However, no studies have been carried out which compare the per student cost of running the School for the Blind with the probable cost of providing an integrated program for either blind students or the partially seeing.

Psychiatrists and psychologists¹⁰³ generally agree that the segregation of a visually handicapped child may produce serious, irreversible social and psychological effects by

- 1) Separating him from his family at a time in his life when he most needs them. Such a separation, they say, often creates a gap between the child and his family which is often difficult to bridge;
- 2) Exposing him to a highly artificial, protected environment which does not prepare him to compete and co-operate in the "normally seeing" world;

- 3) Creating feelings of inferiority in the handicapped child while fostering feelings of superiority and rejection in the sighted which will not be overcome until the two are taught to accept each other from a very early age. The desirable degree of acceptance by the sighted world cannot be achieved if the two groups are separated throughout their most impressionable and formative years;
- 4) Fostering feelings of dependency that are not overcome easily in later life.

These experts view with concern the practice of institutionalizing partially seeing children without any prior psychological or educational assessment. They point out that there may be something other than the visual impairment which is hindering the educational development of such children. In actual practice it would appear that children with either behavioral problems or learning disabilities are being admitted to the School without prior assessment. One parent reported that he was advised by public school authorities to transfer his partially seeing child to the School for the Blind. His child was not performing well in the public school but no one was able to tell him why this was so. Mr. Legge told of one adolescent displaying certain behavioral problems who was admitted to the School even though his vision permitted him to read a clock which was approximately twenty feet away. When asked why this child had been admitted to the School, Mr. Legge declared, "I don't know."

Educators at the Halifax School for the Blind do not appear to have given serious thought to the integration of blind students into the public school. They point to the fact that several partially seeing children have had to transfer to the School because of their inability to progress favorably within the public school system. Such transfers are viewed as proof of the inability of the public schools to meet the particular needs of visually handicapped children. Furthermore, it is claimed that in public schools visually handicapped children are not permitted or encouraged to participate in the full school program and frequently are rejected by their seeing peers. In short, the view taken is that the specialized, residential school is the only setting capable of providing for the educational and extra-curricular needs of handicapped children without prejudice. Further, it is asserted that the residential setting is the only one capable of overcoming the consequences of unwholesome parental attitudes.

In the case of partially sighted children, both the integrated and specialized settings can claim a certain degree of success. Public school educators point to one girl with approximately 5% vision who received her entire education within the public school system.¹⁰⁴ This past year she graduated from high school after having served as editor of her school paper and received an award as "best all-round girl student". Educators in the Halifax School for the Blind point to the success they have had in educating visually limited children who did not do well in the integrated setting.

It is most significant that no attempt has been made to ascertain the degree or reasons of failure in either setting. Nor have there been any studies done which could act as a rational basis for the placement of partially seeing children. No attempt has been made to isolate the factors which enable a certain number of such children to develop favorably not only educationally but socially and emotionally within the integrated settings in their own school districts.

Much of the early literature describes subjective opinions as to the advantages and disadvantages of the integrated and specialized settings. Most of these opinions favored the integrated settings for both the blind and the partially seeing for a variety of reasons.¹⁰⁵ No opinions could be found which favored the specialized, segregated setting to the exclusion of the integrated setting for the education of blind children.

Only one noted writer¹⁰⁶ felt that blind children suffered real segregation within the integrated setting. He called for more research to determine, objectively, the comparative advantages and disadvantages of each setting and the effects of each setting on the blind children enrolled in each.

Research of this area did not reveal one authority which favored the placement of partially seeing children in a residential setting along with blind children.

Recently, three studies have been reported which attempt to evaluate, objectively, the relative effectiveness of the integrated and segregated settings on the overall development of the visually handicapped child.

McGuinness,¹⁰⁷ after a descriptive study of 97 totally blind subjects from five states, concluded that the itinerant teacher setting surpasses both the resource and special school settings in fostering friendships and participation in activities with sighted children. It was also deduced that the integrated setting is superior in fostering independence and social maturity in blind children without sacrificing the ability to communicate braille skills.

Havill¹⁰⁸ noted that while visually handicapped children, generally, were of lower social status, above-average achievement and the itinerant teacher service tended to elevate status since they tended to minimize the difference between the visually handicapped and "normally" sighted children. Rather than abandoning the integrated settings, the author recommended that teachers and administrators search for ways of improving the social acceptance of the visually handicapped child in the regular school.

Luckoff and Whitman¹⁰⁹ found that the impact of special education on blind persons varies as a function of family orientation and age of onset. Special education was found to be a decrement to a congenitally blind child from a family which encourages independence and an increment to those from families which encourage dependency. In their analysis of the impact of educational setting of the development of friendship patterns amongst the visually handicapped and the sighted, the authors found that attendance at a special school was the most discriminating factor. Attendance at a residential school for the blind, they concluded, fashions social-role patterns, influences patterns of social interaction between

the visually handicapped and the sighted and, by segregating the blind, labels them thus providing ". . . the essential ingredient for a group response".¹¹⁰ Segregation in a residential school, it was found, not only discourages friendships between the blind and sighted during childhood, but creates a pattern for life-long affiliations by increasing the social distance between the two.

A research study in the United States by Carroll¹¹¹ and Lowenfeld¹¹² urged an individualized approach to the problem of the educational placement of visually handicapped children. It is recognized that, while certain children, because of an unstimulating early environment or multi-handicaps cannot get a full education in an integrated setting, there may be others who should not be exposed to the disadvantages of the residential setting.

The Superintendent of the Halifax School for the Blind admitted that under ideal conditions which he described as,

- 1) Good home environment;
- 2) If the visually handicapped child is able to adjust to being different than "normal" children;
- 3) If the public school is capable of providing individual attention to the visually handicapped child;
- 4) If the public school is geared to seeing that the visually handicapped child gets a "full" education, curricular as well as "extra-curricular",

the child would be better off in the integrated setting.¹¹³

However, nothing has been done to produce the ideal conditions which would foster the development of the partially seeing child within the public school system, either by the Department of Education, administration of the School for the Blind nor any agents of the C.N.I.B. C.N.I.B. officials have, however, indicated their willingness to give whatever assistance they could to a public school teacher if such aid were requested.

It was noted above that a few children each year are turned away from the Halifax School for the Blind in part because of lack of space and facilities. It is fair to deduce, on the basis of the modern research into new approaches to education of the visually handicapped, that many children at the School need not be there at all. Thus, if merely the completely blind were admitted, there would be ample room for the blind of this province.

It may also be asserted that many visually impaired are "dumped" onto the Halifax School because of emotional-behavioural problems. This, it is suggested may, at least in part, be due to the totally inadequate pre-school system which can do little to obviate the acquisition of emotional problems as it now stands.

If education of the blind in Nova Scotia is viewed as a special compensatory process from the early years to adulthood then it can only be regarded as fragmentary and a failure. The socially successful members of B.R.A.M. seem to support the proposition that they have developed successfully in spite of the system rather than because of the system.

The provincial Department of Education (Special Education Division) must involve itself in the development of special programs for the visually impaired within the public school system. It is appreciated that in the short term, this will involve additional expenditure, but there is no evidence that over a longer period such programs will be any more expensive than all fragments of the present system. In addition, the social cost of a segregated educational system becomes apparent in later years.

The present system does little to arrest behavioral problems; does little to integrate the blind with their sighted peers; does little by way of family counselling; and does little by way of vocational training. Is it any surprise that many blind graduates of the school system experience great difficulty in adjusting to society and, further, that many will remain a charge against the Welfare system for the rest of their lives.

Financial Aid to the Blind

It was first recognized that the blind should receive special monetary compensation for their disability in 1937 and the Old Age Pensions Act was amended so that blind people over 40 became eligible for a pension. Subsequent to that, the Blind Persons Act came into effect in 1952.¹¹⁴ As a result of persistent lobbying by the Canadian Council for the Blind and the Canadian National Institute for the Blind, the age of eligibility was lowered from forty to eighteen years and the very severe limitations on income and property were lessened somewhat. Contrary to popular belief, not all blind people are compensated. In fact, only those who are able to qualify under a very strict means test and are between the ages eighteen and the age at which one becomes eligible for Old Age Security. Many pleas for suspension of the means test were received in response to our survey questionnaires covering the blind population of Nova Scotia. Organizations serving the blind also advocate such an approach.

The present objective of the Canadian Council of the Blind, strongly supported by the Canadian National Institute for the Blind and, many thousands of Canadian citizens, is a Special Allowance, which would be paid by the Federal Government, without a means test, to all blind adults over the age of 18, to help cover the day-to-day extra cost of living due to blindness. 115

At present, money is available for blind persons who qualify, as social assistance payments through Federal Provincial cost-sharing agreements. The enabling statute is the Blind Persons Act,¹¹⁶ section 3 of which allows the Minister of Health and

Welfare to make agreements with the provinces whereby the Federal Government will contribute 75% of the actual amounts paid by the provinces. Each province since 1951-52 has had such an agreement except for Quebec which since 1965-66 has received equivalent payments through a tax abatement pursuant to the Established Programs (Interim Arrangements) Act.¹¹⁷

The Federal Government pays wholly for the plan in the Northwest Territories and the Yukon Territory where there are 28 and 4 blind recipients respectively.

In Nova Scotia, the Blind Persons Allowance Act¹¹⁸ enables the Minister of Public Welfare to make the necessary fiscal agreement with the Federal government. The agreement is recorded by an Order-in-Council of January 25, 1952, made pursuant to the Nova Scotia Old Age Pensions Act.¹¹⁹ The four main items of agreement are:

- (1) The province promises to introduce legislation to create a blind person's allowance.
- (2) The province agrees to consider applications and to grant allowances when the criteria of the agreement and the Federal Act are met.
- (3) There is a statement of maximum amounts the province agrees to pay each recipient.
- (4) The province promises to "do all things and keep, observe and perform all terms, provisions, covenants and agreements as set forth in and provided by the Federal Act and this agreement..."

The agreement is such that the allowance is Federally directed in that the regulations drafted Federally are adopted by the participating provinces. The original agreement has been amended three times to keep the province in accord. With regard to

revised maximum grants, the applicable Orders-in-Council are dated November 19, 1957; April 30, 1957; and February 21, 1962. On file are S.O.R. 55/15 (by Order-in-Council May 11, 1955); S.O.R. 57/190 (by Order-in-Council July 23, 1957); and S.O.R. 60/299 (by Order-in-Council August 24, 1960). Two further amendments to the agreement are contained in Orders-in-Council dated January 15, 1964 and May 7, 1968.

The regulations issued under the Blind Persons Act¹²⁰ are P.C. 1960-1716, December 16, 1960 as amended by P.C. 1962-1038, July 25, 1962; S.O.R. 64/2; S.O.R. 65/494; S.O.R. 68/100; S.O.R. 69/32; S.O.R. 69/613. These are in effect throughout Canada except for Quebec as was noted above, and Saskatchewan, Ontario and Alberta where they have ceased to accept new applications pursuant to section 9 of the Blind Persons Act and have transferred some recipients to general social assistance supported by the Canada Assistance Plan.¹²¹

If the Blind Persons Act recipient is found to have been overpaid, the money is to be recovered from the recipient. If the amount or part of it is not recovered, the Blind Persons Act is to be suspended; in the alternative the province may elect to reduce the allowance by not less than \$5 per month so that there will be recovery in full within five years or by the date on which the person will attain the age at which he might qualify for a pension under the Old Age Security Act,¹²² whichever is the earlier.¹²³

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The issue of the regulations made pursuant to the Federal legislation is examined with particular reference to Nova Scotia; the only point of any significance that is peculiar to Nova Scotia is that there are irregularities in the tabling of these regulations. In any event, there are no independent provincial regulations and the B.P.A. is administered according to the federal plan.¹²⁴

The federal Blind Persons Act provides for a maximum monthly payment to a recipient of \$75 where certain criteria are met. Originally, the maximum was \$40, but this was raised in 1957 to \$46, and then to \$55; in 1962 to \$62; and in 1963 to \$75. For the year 1969-1970 the average monthly allowance was \$72.13 per blind recipient throughout Canada.¹²⁵

Province	B.C.	Alta.	Sask.	Man.	Ont.	Que.	N.B.	P.E.I.	Nfld.
Number of recipients	430	264	68+	255	258+	2,115	448	50	374
Average monthly payment	\$74.00	\$72.30	\$73.19	\$72.00	\$49.93	\$73.39	\$73.96	\$73.62	\$73.43

In Nova Scotia the average payment for that year was \$73.45 for 524 recipients, and the latest figure, for 1970-1971 is \$72.68 for 510 recipients.¹²⁶

The criteria of eligibility are set out in the Blind Persons Act, Section 3. They are (a) blindness; (b) attainment of eighteen years of age; (c) a ten year residence in Canada; (d) not receiving money under the Old Age Assistance Act, the War Veterans Allowance Act, the Old Age Security Act, or the Pension Act. There are also severe restrictions on income, that is, a means test.

Blindness is defined in the Blind Persons Act regulation as:

"A person is considered 'blind' if the visual acuity in both eyes with proper refractive lenses is 20/200 (6/60) or less with Snellen Chart or equivalent, or if the greatest diameter of the field of vision in both eyes is less than twenty degrees." 127

There is no serious exception to such a definition applied to this purpose if a technical definition is desired. In Britain,¹²⁸ the definition, established since 1914, is "too blind to perform work for which eyesight is essential." In the subsequent National Assistancess Act, 1948, and the Ministry of Social Security Act, 1966, there is a change to "so blind as to be unable to perform any work for which eyesight is essential." This practical test is nevertheless carried out within the context of a number of Ministry of Health directives which may, in fact, amount ot a stiffer technical test than in Canada. In any event, both Canada and Britain are in accord that for vision measured at 6/60 Snellen or above "such a person should ordinarily not be regarded as blind."¹²⁹

This is also the standard of the Canadian National Institute for the Blind, and is consistently the definition of Canadian Blind Workmen's Compensation Acts,¹³⁰ though the latter omits any reference to diameter of field of vision. It might have been observed that there is a non-technical guide to what 20/200 actually means in terms of normal experience contained in British Columbia's "Blindness Allowance Investigation" form.¹³¹ This form is not for the report of an oculist, but for the investigator of the Department of Social Welfare. It says,

"With just 20/200 vision with glasses, one can see enough to go outdoors safely in ordinary traffic and to do some work not requiring accurate vision, but one cannot see well enough to read ordinary newsprint while wearing correct glasses."

The Social Welfare worker must, presumably, observe whether the person can see well enough to read, tell time, find and distinguish documents, identify small objects and at what distance, sew, do housework, ride a bicycle, or drive a car, and so on. On the form that all examining oculists complete and send for eligibility evaluation to the Department of National Health and Welfare pursuant to section 6 of the Blind Persons Act regulations,¹³² there is a statement that vision better than 20/200 or wider than twenty degrees does not admit to eligibility for the allowance, and a statement that "No disability except the amount of vision may be considered for entitlement to an allowance." The manifest intention of this is to remind the doctor that he is not to be soft-hearted but is to report

accurately. But, it is suggested, the combination of stating what the exact test is, and then using the phrase "amount of vision" rather than, for example, repeating the strict test, could well combine to allow or even encourage the doctor to consider other sorts of eye disabilities, make his own evaluation of whether they constitute a compensatable eye defect, and tailor his report accordingly.

When a candidate meets the low vision requirements, he must also show that he is within the statutory age limits and satisfies the residency (10 years) requirement. Assuming that an applicant satisfies age, residency and blindness testing, it must then be shown that he falls within the rather strict income limitation.

The maximum allowable income limits are:

- | | | |
|-------|---|---------------------------|
| (i) | single person | \$1,500 per year |
| (ii) | single person with
dependent child (ren) | \$1,980 per year |
| (iii) | married | \$2,580 per year for both |
| (iv) | married to a
blind spouse | \$2,700 per year for both |

The maximum amount that any person may annually receive by way of B.P.A. is \$900 (12 x \$75 per month) a single person may himself earn up to \$600 without having his allowance reduced. The figures for the other categories of recipients are \$1,080, \$1,680 and \$900 respectively. The last figure of \$900 is based upon the assumption that both blind spouses would be receiving the B.P.A.

The following points may be noted:

- (1) That the distinction in amounts between categories (iii) and (iv) implies a recognition that it is more expensive for a blind couple to live than for a couple of which only one spouse is blind. The inevitable inference is that there is a recognition that life is generally more expensive for the blind.
- (2) For categories (ii) and (iii) there is no recognition of the cost of the number of children, in the one instance by not distinguishing a person with one child from a person with more than one child, and in the other instance by not distinguishing between a married couple and a couple with children.
- (3) These figures and the maximum \$75 per month have not been changed since 1963. There is also a maximum of \$25 under a supplementary assistance available and this is discussed later.

These rates of payment and incomes allowed should be compared with the provisions under other assistance acts, particularly the Disabled Persons Act,¹³³ the Old Age Assistance Act,¹³⁴ the War Veterans Allowance Act,¹³⁵ and the Old Age Security Act.¹³⁶

The Disabled Persons Act is most closely allied to the Blind Persons Act both having the same age, residence, and maximum monthly payment conditions. The cost sharing is, however, 50% federal and 50% provincial, as it is in the Old Age Assistance Act which is comparable to both of the above statutes, except that it begins where the others leave off, that is, at age 65. One major point of comparison is that, except for the two solely federal acts, they are all mutually exclusive, i.e., receipt of one is a bar to receipt of any other. Compare facts in table on next page:

	Blind Persons Act	Disabled Persons Act	Old Age Assistance Act
Legislation	Federal Act, & Provincial Acts	Same	Same
Administration	Federal and Provincial	Same	Same
Funds	Federal 75% Provincial .. 25%	Federal 50% Provincial .. 50%	Same
Minimum Age	18 years	Same	65 years
Residence	10 years in Canada	Same	Same
Maximum Payment	\$75 monthly	Same	Same
Permitted Income	Single \$1500 Single & Child .. \$1980 Married ... \$2580 Married, blind spouse ... \$2700	Single \$1260 ----- Married ... \$2220 Married, blind spouse ... \$2580	Single \$1260 ----- Married ... \$2220 Married, blind spouse ... \$2580
Medical Test	Blindness, as in Regulations	Total, permanent disability, as in Regulations	None
Other Assistance	Debarred by receipt of Old Age Assistance, Disability, War Veterans Allowance, Old Age Security, or Pension under Pension Act.	Debarred by receipt of Old Age Assistance, Blindness, War Veterans Allowance, Old Age Security, or Mother's Allowance.	Debarred by receipt of Blindness, Disability or War Veterans Allowance, or Old Age Security.

These acts are similar on many points. So far as disability is concerned, the definition, by P.C. 1954-1831¹³⁷ is the presence of major mental or bodily impairments likely to continue unimproved for life and resulting in severe limitation of normal life. Of the three schemes, it is most advantageous for the recipient to qualify under the Blind Persons Act; the amounts paid are the same, but the recipient is permitted a higher earned income. It is also of advantage to the province of Nova Scotia to distribute money under their Blind Persons Allowance Act since the federal government is prepared to pay a greater percentage of the cost.

As between the blind and the otherwise disabled or the aged, there is no apparent reason for the discrepancy in incomes allowed. Further, the criticisms made above of the B.P.A. hold true for the Disabled Persons Allowance and Old Age Assistance; in that there is no provision for children, and the amounts are based on a cost of living which is almost ten years old. A ten year delay in re-assessment of cost of living is of considerable consequence during a period of rapid inflation and rising prices.

The B.P.A. provisions may also be compared with those of the Old Age Security Act, and the War Veterans Allowance Act. The old age security scheme has no income qualification and guarantees to every person who wishes to apply and is sixty-five years old and has ten years residence in Canada, a monthly income of \$75 which has been adjusted by the Pension Index pursuant to

Section 4 of the Act, to a new figure of \$81.17. There is also a monthly guaranteed income supplement which is calculated as forty percent of the main part of the pension less \$1 for each \$2 of income above the flat rate pension. Thus, a person on Old Age Security might presently receive up to \$113.68 per month. Insofar as the condition of blindness as a general disability and cause of increased monetary expenditure may be compared with old age, and one would often, though not always, expect a reasonable comparison, the aged are clearly better off.

The War Veterans Allowance Act, Section 3, and the Schedule provides for payment of an allowance to a veteran over sixty or his widow over fifty-five or to either of their persons of any age if they are adjudged

- (i) "permanently unemployable because of physical or mental disability"; or
- (ii) "because of physical or mental disability or insufficiency combined with economic handicaps, incapable and unlikely to become capable of maintaining himself or herself".

The Schedule provides the following table which shows the special place of blindness in the calculations:

(Shown on next page)

Class of Recipient	Monthly Rate	Maximum Annual Income (Including Allowance)
a) Unmarried veteran or widow without any child	\$105.00	\$1,740.00
b) A person of class (a) blind as defined in the <u>Blind Persons Act</u>	\$105.00	\$1,860.00
c) Married veteran residing with spouse	\$175.00	\$2,940.00 for both
d) Unmarried veteran or widow with a child	\$175.00	\$2,940.00
e) A person of class (d) blind as defined in the <u>Blind Persons Act</u>	\$175.00	\$3,060.00
f) Married veteran residing with a blind spouse as defined in the <u>Blind Persons Act</u>	\$175.00	\$3,060.00 for both
g) Married veteran blind as defined in the <u>Blind Persons Act</u> and residing with spouse	\$175.00	\$3,060.00 for both

It may be deduced that a blinded veteran is eligible for much more money than any other blind person,,and has a slightly more humane means test to encounter.

B.P.A. recipients are eligible for an extra monthly allowance. This is provided by an amendment to the Nova Scotia Blind Persons Allowances Act and the Social Assistance Act,¹³⁸ as amended by Bill No. 46, 1971.

This extra allowance also depends on need but the need is calculated differently. It is determined by a budget deficit system as distinct from the B.P.A. itself which is calculated on "means test" maximum income levels. In Nova Scotia, there are currently 510 people receiving the Blind Persons Allowance while 416 of that number are also in receipt of a supplement at an average disbursement of \$24.65¹³⁹ out of the maximum \$25 per month.

Pursuant to Section 18(1) of the Social Assistance Act, regulations have been made to establish that \$25 maximum. Section 7 of the new Provincial Assistance Regulations, dated June, 1971, states that "The Director may pay...the lesser of (a) one hundred percent of the budget deficit of the recipient, or (b) twenty-five dollars per month." Thus, some 80% of the province's recipients of the B.P.A. get a monthly cheque of \$100 made up of two parts, the one awarded by a means test, the other calculated by a budget deficit.

The distinction between the two standards is a crucial matter. The supplementary allowance is paid from general Department of Welfare money and is, therefore, 50% federally

funded under the Canada Assistance Plan.¹⁴⁰ In matching dollar for dollar the outlay of the provinces and their municipalities for welfare services the federal government is working to eliminate means test systems and replace them with a needs test.

Speaking in Halifax last year, N. F. Cragg, Director of the Canada Assistance Plan, said the following:

"The only mandatory eligibility requirement for material assistance specified in the Canada Assistance Plan is that of need which must be determined through an assessment of budgetary requirements as well as income and resources available to the applicant. Provisions for federal sharing of welfare services are extended to services provided not only to persons in need, but also to persons who are likely to become needy unless such services are received..... the fact rather than the cause of need should be the basic criterion for establishing eligibility. This is designed to replace forms of criteria such as employment, old age, disability, and similar causes. Inability to maintain oneself and one's dependents should now be the essential qualification. The Act also represents a departure from previous federal legislation in that it focuses on family need rather than on that of the particular individual whose situation (e.g. disability) resulted in family need.

The Canada Assistance Plan encourages an integrated approach to public assistance by providing that predecessor programs such as Old Age Assistance, Blind Persons Allowance, Disabled Persons Allowances and Unemployment Assistance can be replaced by the omnibus provisions of provincial general assistance programs provided that recipients affected receive at least comparable assistance under the new arrangement." 141

In accordance with Section 9 of the Blind Persons Act provinces that enter into an agreement with the federal government under the Canada Assistance Plan may discontinue acceptance of applications for the B.P.A., and may also transfer recipients to a program under the Plan if they are eligible for comparable or greater benefits. This provision was a 1966 amendment to the Blind Persons Act, which was implemented by Saskatchewan that year, by Ontario in the following year, and by Alberta in 1968. Alberta, however, has not transferred its recipients. In Ontario the transfer resulted in a drop in number of recipients, which since the start of the plan in 1951-1952 had been between 1,600 and 2,000, to 835 for 1967-1968, 330 in 1968-1969, and 258 in 1969-1970.¹⁴²

In Saskatchewan the number had varied between 340 and 420; in 1966-1967 it was 272; in 1967-1968, 131; in 1968-1969, 99; and in 1969-1970, 68.¹⁴³ The Quebec allowances, as mentioned above, are now handled exclusively by that province which then receives a tax abatement under the Established Programs (Interim Arrangement) Act. All other provinces have yet to make the changeover, although the agreements for the cost-sharing under the Blind Persons Act will terminate in 1976, or earlier if mutually agreed. In Nova Scotia one might reasonably speculate that the change will be made in 1975 since the present Director of Blind Persons Allowances, Mr. Donald Webber, is now 57 and plans to retire at 60.

The Nova Scotia supplement is calculated on a budget deficit method based on the following table:¹⁴⁴

Ages of Family Members	Food	Clothes	Misc. Essentials	Board
0 - 6	\$17.00	\$ 7.00	\$4.00	\$25.00
7 - 11	24.00	8.00	5.00	30.00
12 - 17	32.00	11.00	6.00	40.00
18 and over	28.00	10.00	5.00	75.00 ¹⁴⁵

A recipient who owns his own home is allowed to compute in his monthly budget his mortgage payments, taxes, heat (up to \$20 per month), water (up to \$4 per month), electricity (up to \$12 per month), and a home maintenance allowance of \$12 per month. A person who rents is allowed these same amounts for heat, water, and electricity, and is allowed the rent up to \$100 per month. There are also percentage adjustments on the food allowance above the amounts in the table: for one person an additional 20%, and for a family of two or three persons an addition of 10% to the total food budget.

To take some examples:

(a) One person renting --	rent	\$100.00
	heat	20.00
	electricity	12.00
	water	4.00
	clothes	10.00
	miscellaneous	5.00
	food	<u>33.60</u>
	total	\$184.60
	Adjusted Total ¹⁴⁶	\$153.60

(b) A family with two children (5 years & 8 years) renting --	rent	\$100.00
	heat	20.00
	electricity	12.00
	water	4.00
	clothes	35.00
	miscellaneous	19.00
	food	<u>127.00</u>
	total	\$317.00
	Adjusted Total	\$296.00

The above figures are the standards by which the province would calculate a family's monthly needs. The limit of supplementary assistance to a recipient of the B.P.A. is \$25 and so the actual budget deficit is not yet relevant to a blind person. By comparison, it should be observed that in British Columbia the budget amounts above would be \$173.60 for a single person, and \$302.20 for a family. Also, in British Columbia the supplement to the B.P.A. is \$60.00 to Nova Scotia's \$25. The effect of this amount of supplement in British Columbia is to guarantee every blind person that his annual income will be at least that set out in the Blind Persons Act means test.¹⁴⁷

The province of Nova Scotia handles long-term cases of need, about 75% of which will be single women with children and no job prospects,¹⁴⁸ and the residual role of the municipalities is usually to meet short-term need or needs unmet by other sources. It is at the municipal level that budget deficit is a reality. When the B.P.A. is phased out, the province will then have to make effective use of the budget deficit method for the blind. In all likelihood, the blind will be classified at the maximum level in just the same manner as a disabled person under the present system. At this point in time, the municipalities are responsible. Compare these tables for the County of Halifax and the City of Halifax with each other and the Provincial allotments:

Halifax City

Age of Family Members	Food	Clothes	Misc. Essentials
0 - 6	\$14.00	\$ 9.00	\$2.00
7 - 11	20.00	10.00	2.00
12 - 18	28.00	13.00	2.00
Adult	24.00	9.00	3.00

There is a basic rate for board of \$85. Rent maximums are \$110 without utilities and \$150 with utilities included. For electricity and water the actual amounts are allowed. Heat is \$15 per month April-September and \$30 October-March. There are also provisions for school supplies and travel. Drugs, often of great importance to a blind person, are supplied at the Metropolitan Dispensary for a recipient of a B.P.A. where a budget deficit is created by counting his drug costs. Income calculations include 100% of unearned income and 100% of salary less \$5 per week.

Halifax County

Age of Family Members	Food	Clothing	Personal Essentials	Miscellaneous Household Essentials
0 - 6	\$14.00	\$3.50	\$1.40	\$.70
7 - 11	20.00	5.00	3.00	1.00
12 - 18	28.00	7.00	2.80	1.40
Adult	24.00	6.00	2.40	1.20

The fuel, electricity, and water rates follow the Provincial scale of \$20, \$12, and \$4 respectively. Rent is allowed up to \$50 for one person, \$70 for two, \$90 for three or four, \$110 for five or six, \$130 for seven or eight, and \$150 for nine or more. Again there is a provision for drugs, by way of a drug authorization card.

The above overview of the financial aid to the blind raised a number of interesting issues. In June, all registered blind people in Nova Scotia were surveyed and one-third responded. Of this one-third of the blind population, over 40% had adverse comments regarding the financial aid system. In particular, two issues emerged:

- (1) The inadequacy of the level of benefit, and
- (2) The widespread disenchantment with the use of the means test.

The above calculations are of significance in reference to the first issue. As over one-third of the blind in Nova Scotia rely exclusively on government financial aid for support, it may be asserted that the guarantee of government aid, at present levels, guarantees poverty. Allowances, and the calculation methods used, can only ensure a subsistence level in terms of standard of living.

Clearly, the assertions stated here are not new. The Report of the Senate Committee on Poverty when read with the Renegade Report of that same Committee lead one to the inescapable conclusion that present levels of assistance afford little more than Guaranteed Annual Poverty to a large segment of the Canadian populace, both blind and sighted. What is particularly harrowing about the blind as a minority group is that in the absence of adequate vocational training and educational facilities, it is well nigh impossible to envisage blind recipients ever transcending the poverty existence to which society has condemned them.

Thus, we are witnessing the entrenchment of deprivation to such a degree that it is fair to suggest that governmental approaches in the last twenty years have seemingly created minimal upward progression, and, instead, have produced dependance upon a permanent basis of cost-shared poverty.

It is to be noted that the overall average annual income of the blind in Nova Scotia, as revealed by the Survey, stood at \$1,775 in June of 1971. With this statistic in mind, it is fair to view the British and American approaches to the issue of adequacy of benefits. In Britain it has long been recognized¹⁴⁹ that the visually handicapped, in fact, need to be compensated for their disability. In brief, the philosophy of the British Welfare State legislation has been that equality can only be attained when the disadvantaged have been compensated and thus "brought-up" to the level of a normal person.¹⁵⁰ In this manner the British pay more in benefits to blind people than to other recipients of state aid. Britain also provides a variety of vocational training programs ensuring a higher degree of upward mobility. Having provided training, British legislation also establishes that 3% of employees in most large undertakings must be disabled people.¹⁵¹ By comparison, Canada's approach seems to concentrate on "levelling down" by applying a means test based on totally inadequate levels of benefit and an absence of legislative devices that would ensure upward mobility. In short, Canada now has its own class of "impotent beggar" and the situation is strangely reminiscent of the English Elizabethan Poor Laws.¹⁵²

The United States federal government became involved in financing a measure of social security for the blind which was to be both "a measure of prevention and a method of alleviation"¹⁵³ based on the assumption articulated in 1934 by President Franklin D. Roosevelt as an attempt to deal with the threats of "the misfortunes which cannot be wholly eliminated in the man-made world."¹⁵⁴ Like the Canadian system, eligibility was determined upon residency, proof of blindness and a means test.

Without embarking upon a detailed excursus it is sufficient to note that the U.S. attempts to handle the issue of aid to the blind took a turn for the better in the mid-1950's. Legislation was introduced which concentrated more upon the vocational and social reintegration of the disabled.¹⁵⁵ The avowed intention of Congress was to promote self-support and self-care¹⁵⁶ and this has been the prevailing philosophy in the U.S. for the past twenty years. American programs cannot be described as successful but their incomplete achievement should not undermine a purposive approach which is preferable to the Canadian legislative position outlined above. One interesting feature of the U.S. legislation is that a system of meaningful income "incentive exemptions" have been built into the system by recent amendments. Thus, a blind person may now work without prejudicing his benefits and earn income, without limit, which will be exempted from computation of benefit provided that such can be shown to be "part of an approved plan to achieve self-support."¹⁵⁷

The second major bone of contention relates to the use of a means test. In 1933, Mr. Aneurin Bevan, M.P., who was later to become the chief parliamentary architect of the British Welfare State as Minister of Health Housing and Local Government, remarked that the means test had the following intention:

"You want to suffocate the unemployed man's cries in a maze of bureaucracy." 158

The only passing alteration one might make to that comment is that today, in Canada, the administration of the means test has not only created a maze of bureaucracy, but it has also absorbed, co-opted and thereby rendered ineffective significant numbers of social workers who have to administer tests rather than properly counsel those in need.

The means test also has its origin in English Elizabethan poor law. Stated quite simply, this method of calculation of aid involves the balancing of the individual's means against his needs. This system was exported by England to most of its colonies and dominions and still forms the basis of the Canadian approach. Nowadays the application of the means test amounts to a judgment by an administrator or social worker of means set against need but within stringent and unrealistic budgetary limitations as defined above which is mathematically calculable after "investigating" the situation of the applicant.

Many eloquent critiques of the means test approach have been voiced over the years. It is sufficient at this point to merely note that it withdraws from the recipient the management of his own affairs thus, further inculcating the psychology of dependency. In addition, the test is demeaning to the dignity of the applicant. More significantly, with regard to the blind, it subjects the blind recipient to a system of controls that weaken self-reliance and stifle rehabilitation while entrenching dependence.

In terms of administration, the means test increases bureaucracy, creates an unnecessary "career-line" of social welfare workers, increases overall costs of aid programs and inevitably carries within it a system of administrative discretion with the corollary of potential abuse of such discretion. As Professor Charles A. Reich has graphically demonstrated, the abuse of discretion, often because of moral and/or behavioural norms, is inherent in this approach to the distribution of government largesse.¹⁵⁹ Much more could be said of this decrepit and socially redundant non-system but our contact with the blind consumers of this method reinforces those who have argued that such systems lead to a psychology of subservience on the part of the recipient. The complaints of the blind recipients give strength to the proposition that all who enter this "system" lose the "right to be believed."¹⁶⁰

In short, the means test is viewed, with good reason, as a pernicious device used to deprive the visually handicapped citizen of his right to a socially determined standard of living consistent with fundamental principles of human dignity. In response to our survey, the blind people of Nova Scotia took such a stance. The means test, it is submitted, must be abolished forthwith as it has clearly outlived whatever usefulness that it ever possessed and is beyond rational justification in today's society.

One other interesting aspect of the present system is the insistence upon return of over-paid benefits. It was noted above that the amount must be recovered or the B.P.A. will be suspended. The province may reduce the future amounts paid by not less than \$5 per month until "restitution" is made. This provision has the effect of causing great hardship to the blind recipient and the root cause often lies in a bureaucratic error which initiated the erroneous payment. It is not surprising that many of the blind do not understand the operation of the Blind Persons Act, Regulations made thereunder, the Social Assistance Act and the relevant ancillary legislation. Indeed, the propensity for error in the system tends to show that some administrators do not fully comprehend the system and thus make mistakes.

If, out of this almost incomprehensible bureaucratic jungle an extra or increased payment is received, the blind are in some way expected to appreciate the intricacies of statutes that they have not read, and very probably, cannot read, and, furthermore, divest themselves of their subservience by corresponding or contacting the proper authorities. Perhaps the federal government envisaged the blind immediately establishing a trust until the issue was settled? It is submitted that this regulation is totally out of step with reality. The statistics reveal that most blind people who rely exclusively upon B.P.A. are already in a state of poverty and the means test ensures that they "need" every dollar received. It follows that to reduce such payments because of an error which is beyond their control is stupid and not a humane way of dealing with this problem. Indeed, if the cost of collection were assessed, it may be found that the expense involved in establishing the statutory machinery for such collections is not justified.

If, on the other hand, it can be shown beyond a reasonable doubt that the over-payment was due to fraud on the part of the blind recipient, then the law already provides appropriate remedies - including restitution.

In short, under present legislation, the blind recipient may be penalized for a wrong which he did not cause. Such a statutory provision (passed in 1965) must surely represent the low-point of Canadian social legislation. This 1965 regulation is morally unjustifiable and should be repealed without delay.

To conclude the matter of financial aid to the blind, it must be asserted that the absorption of the B.P.A. under the Canada Assistance Plan and the uniform need criteria is not enough.¹⁶¹ The visually handicapped do not merely require assistance comparable to the Aged and Disabled within low and rigid financial limits. The blind need compensatory treatment. It is totally insufficient to replace the B.P.A. with any other cost-shared plan which will merely have the effect of setting the blind on a par with other welfare recipients. The blind need more money in order to compensate for their disadvantage. Any theory of social welfare must take cognisance of the fact that in order for "equality" to be achieved the blind must, by the vehicles of financial aid and vocational training, be "levelled-up" to the social situation of a seeing human being. To merely provide a standard of living which is comparable to a welfare recipient will not project the ideal of self-support and integration into society, but rather tend to perpetuate the present sorry state of affairs.

The Blind and the Law of Tort

It is apparent to even the casual observer that, since Tudor times, there has been a direct correlation between blindness and poverty. A review of the history of the English Elizabethan Poor Laws shows that the blind were regarded as incompetent and permanently dependent upon charity. The blind were, in fact, classified as impotent beggars and the Elizabethan solution seems to have been merely to grant legal status to this category of beggar.¹⁶² To Aquinas, the condition of blindness connoted a degree of sinfulness on the part of the visually impaired.¹⁶³ More significantly, for our purposes, was the implicit (and often explicit) assumption that the blind were helpless and, indeed, chronic unemployables. Even to this day the blind person is, more often than not, permanently unemployed and in receipt of subsistence level governmental assistance. To put the matter bluntly, the average blind person is often unemployed and poor.

In twentieth century Canada, however, matters have altered course at least to some degree. There has been a gradual change in philosophy which acknowledges the fact that the blind do not possess inherent qualities that ensure unemploymentability. In the last twenty years, there has been a shift in emphasis toward the utilization of vocational education to equip the blind in such a way that they will regain their dignity as human beings while, at the same time, enabling the blind to become useful and productive members of Canadian society. The work of the Brantford

School for the Blind in Ontario is testimony to this change in emphasis. At that school not only are the blind offered various courses of a vocational nature but also there are programs whereby Senior Grade blind students are required to look after themselves in off-campus housing for periods of three months. This "independence training" fosters self-reliance and also enables the visually handicapped to take their place within the mainstream of society. In addition, White Cane laws¹⁶⁴ have served to encourage the blind to venture forth into the world of seeing people.

The point is that old custodial attitudes have now largely disappeared and the policy of legislatures and the blind is that of "integration". The last thirty years have witnessed a development in public consciousness to the effect that the disabled must be allowed to maximize their potential and, whenever possible, achieve full status in Canadian society. Modern developments in psychology and social theory have demonstrated that integration is the correct course to pursue and it is fair to deduce that all agencies dealing with the blind, both public and private, have consciously adopted an "integration policy".

The significance of this change in policy to the law of torts may be appreciated when it is realized that for the blind to become productive and useful members of society, that is to integrate, a degree of mobility is required. In order for the blind to work and lead a socially useful existence,

it is necessary to go to and from places of employment, theatres, restaurants, hotels, airports, taxis, buses and so on. Thus, if integration is to become a reality, more and more blind people will use our streets. The problem presented by law of torts can be stated quite simply as: "What duty, if any, is owed to a blind person who is using services and facilities provided for the public at large?" The issue, therefore, is one of foreseeability. In the words of Lord Atkin in the classic negligence case of Donoghue v. Stevenson:¹⁶⁵

"You must take reasonable care to avoid acts or omissions which you can reasonably foresee would be likely to injure your neighbour. Who, then, in law is my neighbour? The answer seems to be -- persons who are so closely and directly affected by my act that I ought reasonably to have them in contemplation as being so affected when I am directing my mind to the acts or omissions which are called in question." 166

Other, more recent cases, have forced the highest courts to grapple with the complexities of interpretation presented by this statement of principle but add very little to the position of a blind person as plaintiff in negligence.¹⁶⁷

Once a breach of a "duty of care" has been established, the rule is that the defendant must take his victim as he finds him. The question to be determined is whether a duty exists in relation to the blind. The general principle is that the law will not take account of abnormal infirmities in the person or property.¹⁶⁸ In the case of Bourhill v. Young¹⁶⁹ the House of Lords took the view that,

"A blind or deaf man who crosses the traffic on a busy street cannot complain if he is run over by a careful driver who does not know of and could not be expected to observe and guard against the man's infirmity." 170

This reasoning was applied by the English Court of Appeal in the case of Pritchard v. Post Office¹⁷¹ in which a blind man stumbled through a barrier and fell into a hole. It is significant, however, that some fifteen years later Lord Evershed very carefully refused to follow his own decision in Pritchard.¹⁷²

In the only directly relevant Canadian authority the Ontario Court of Appeal decided that a blind person who was injured in stepping backward and falling down an open restaurant stairway could not recover damages in negligence. This case of Carroll v. Chicken Palace Ltd.¹⁷³ applied the decision in Bourhill v. Young and it is clear from the reasoning of Aylesworth, J. A. that the staff of the restaurant were aware of the injured plaintiff's blindness and, further, that the plaintiff had failed to seek assistance although it had been offered and was available upon request. The court found that the blind plaintiff had failed to use reasonable care for his own safety¹⁷⁴ and that the plaintiff's behaviour, on the facts, was unreasonable.

The Carroll case has also been interpreted to stand for the proposition that if the defendant knows that the plaintiff has some characteristic or incapacity which will increase the

risk of harm, the court may hold that the defendant owes a proportionately higher degree of care.¹⁷⁵ It may also be deduced from the reasoning that the carrying of a white cane would make the defendant aware of the infirmity of blindness.¹⁷⁶

The most recent case that is directly in point is the decision of the House of Lords in Haley v. London Electricity Board.¹⁷⁷ Here it was held that persons carrying out excavations in a London street ought to foresee the presence of blind persons and use effective protective devices around the excavations. This case does not differ much from the preceding decisions in that it does not place an inordinate burden upon the defendant, as such defendants are still entitled to assume that there are places to which the blind will not venture unaccompanied, and, furthermore, that the blind must take reasonable care for their own safety by, for example, using a white cane.¹⁷⁸

The Haley case is significant in that evidence was skillfully led at trial to show the number of blind people in the City of London and the proportion of blind at large in Britain. The court took this evidence into account and counsel for the plaintiff posed the issue in this way,

"...it is plain that for present purposes a blind or partially-sighted person is my neighbour.....The House is invited to reject the contention that blind persons go on the highway at their peril." 179

Counsel also distinguished the observations of Lord Wright in Bourhill v. Young (above) on the grounds:

- (i) that they are obiter; and
- (ii) that it represents a different situation from that of a blind man properly using a pavement. 180

For the defendant it was argued, inter alia, that to find for the blind plaintiff would "impose a burden" which would require a departure from normal practice.¹⁸¹ In addition, the decision of Pritchard v. Post Office was relied upon.¹⁸² The arguments of counsel for the plaintiff and for the defendant are interesting in that, unlike all of the other cases, a full airing is given to policy arguments. These policy arguments hinge upon the effect of the notion of integration mentioned above. This is of importance due to the fact that what little Anglo-Canadian writing that does exist reveals an appalling ignorance in this regard. The noted English jurist, R. W. M. Dias recently made the following statement:

"...a century ago there was no rule either recognizing or refusing to recognize a duty of care toward blind pedestrians because they were rarely seen in the streets." 183

Clearly Dias is wrong on the facts. The effect of the Elizabethan poor laws was to put blind beggars on the streets and this has been so for several centuries. The qualitative change in the behaviour of the blind is that they do not now use the streets to beg but, rather, for purposes such as going to and from their place of employment and other such routine activities as in the Haley case.¹⁸⁴

There has been a shift away from residential schools for the visually handicapped and institutionalized or custodial care for blind adults.¹⁸⁵ Today, blind children and adults are encouraged to lead active lives utilizing, whenever possible, the public school system, and, in addition, the emergence of the concept of vocational training for the blind means that an increasing number of blind people are achieving the goal of self-support through the utilization of their own employment skills. If this integration of the blind into our communities is to be successful, then it must be anticipated that the visually handicapped will use the streets.

The House of Lords in Haley's case examined the doctrine of foreseeability with regard to the blind. In effect, the court took judicial notice of the fact that

"we all are accustomed to meeting blind people walking alone with their white sticks on city pavements." 186

The court relied upon statistics which were introduced to show that Britain had a blind population of 107,000 or approximately 1 in 500.¹⁸⁷ It is also clear that the court regarded the constant use of a white cane as increasing the visibility of the blind thus making the blind conspicuous and, presumably, giving others a warning of their presence. The court took the view that the use of reasonable care by a blind man would imply the use of a white cane.¹⁸⁸

Lord Evershed in *Haley* seemed to be aware of the change in philosophy and the move to integration when he said,

"If it be said that your Lordships are making new law, that is only because, whatever may have been the facts and circumstances reasonably contemplated a hundred years or more ago, at the present time it must be accepted as one of the facts of life that appreciable numbers of blind persons, having had the requisite training, are capable of using or use in fact public footpaths.....and that accordingly their presence upon such footpaths cannot be reasonably disregarded or left out of account of those undertaking work of the character being in the present case done by the respondent board." 189

Similarly, Lord Hodson took the approach, after analysing the case law, that the blind could not be "excluded from the realm of foreseeability."¹⁹⁰ In the words of Lord Reid,

"The blind people we meet must live somewhere and most of them probably left their homes unaccompanied." 191

In other words, the court implicitly acknowledged the change in philosophy and the use of the integration approach by relying upon common knowledge and judicial notice. The court, by merely distinguishing Pritchard v. Post Office¹⁹² on its facts rather than overruling it has not completely caught up with the twentieth century change in social policy although the Pritchard case and, indeed, the Carroll case¹⁹³ should not impede a blind plaintiff if he takes reasonable care. It seems clear from the reasoning in *Haley* that reasonable care would include the carrying of a white cane so as to warn others who might owe a duty.

In the words of Lord Evershed,

"In the exercise of reasonable care, local authorities and other public bodies are entitled to assume that if a blind man exercises his privilege of using a public footpath, he will have been trained to protect himself from collisions by the use of his stick." 194

It may be deduced that, as well as reasonable precautions being taken by users of the streets, the blind must also minimize the risk by using a white cane. The court rejected the view of Lord Denning in the Court of Appeal who said that to supply adequate precautions to protect the blind would be

"too great a tax on the ordinary businesses of life." 195

Clearly, Lord Denning was thinking in terms of mere fiscal cost and not the immense social cost of maintaining the blind at home as idle "unemployables".

During interviews with blind people in and around Halifax during the summer of 1971, it became obvious that they have some degree of apprehension with regard to their ability to move freely to and from their place of employment and places of entertainment. The issue seemed to turn on the status of the white cane and the alleged reluctance of many motorists to give right of way to a blind person using such a cane.

It is fair to suggest, in keeping with the decision in Haley's case, that most people are aware of white canes. Certainly the White Cane legislation has helped in this regard.¹⁹⁶ As well as the Canadian provincial legislation, it is significant to note the 49 of the American States have White Cane laws.

If it is correct to say that the policy of government and private agencies is to integrate the blind, whenever possible, into society then it is appropriate to propose a statutory strengthening of provincial laws relating to the blind. It is likely that future Canadian courts would follow Haley but the existence of Carroll and Pritchard decisions still gives cause for concern. Thus, while waiting for the courts to become attuned to developments in social policy, it is suggested that provincial legislatures should seriously consider enacting the American Model White Cane Law (below). All that this law proposes is a statutory recognition of the shift in public policy together with the statutory strengthening of basic protection of the blind.

MODEL WHITE CANE LAW

§ 1 -- It is the policy of this State to encourage and enable the blind, the visually handicapped, and the otherwise physically disabled to participate fully in the social and economic life of the State and to engage in remunerative employment.

§ 2 -- (a) The blind, the visually handicapped, and the otherwise physically disabled have the same right as the able-bodied to the full and free use of the streets, highways, sidewalks, walkways, public buildings, public facilities, and other public places.

(b) The blind, the visually handicapped, and the otherwise physically disabled are entitled to full and equal accommodations, advantages, facilities, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motor buses, streetcars, boats or any other public conveyances or modes of transportation, hotels, lodging places, places of public accommodation, amusement or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons.

(c) Every totally or partially blind person shall have the right to be accompanied by a guide dog, especially trained for the purpose, in any of the places listed in section 2(b) without being required to pay an extra charge for the guide dog; provided that he shall be liable for any damage done to the premises or facilities by such dog.

§ 3 -- The driver of a vehicle approaching a totally or partially blind pedestrian who is carrying a cane predominately white or metallic in color (with or without a red tip) or using a guide dog shall take all necessary precautions to avoid injury to such blind pedestrian, and any driver who fails to take such precautions shall be liable in damages for any injury caused such pedestrian; provided that a totally or partially blind pedestrian not carrying such a cane or using a guide dog in any of the places, accommodations or conveyances listed in section 2, shall have all of the rights and privileges conferred by law upon other persons, and the failure of a totally or partially blind pedestrian to carry such a cane or to use a guide dog in any such places, accommodations or conveyances shall not be held to constitute nor be evidence of contributory negligence.

§ 4 -- Any person or persons, firm or corporation, or the agent of any person or persons, firm or corporation who denies or interferes with admittance to or enjoyment of the public facilities enumerated in section 2 or otherwise interferes with the rights of a totally or partially blind or otherwise disabled person under section 2 shall be guilty of a misdemeanor.

§ 5 -- Each year, the Governor shall take suitable public notice of October 15 as White Cane Safety Day. He shall issue a proclamation in which:

- (a) he comments upon the significance of the white cane;

- (b) he calls upon the citizens of the State to observe the provisions of the White Cane Law and to take precautions necessary to the safety of the disabled;
- (c) he reminds the citizens of the State of the policies with respect to the disabled herein declared and urges the citizens to cooperate in giving effect to them;
- (d) he emphasizes the need of the citizens to be aware of the presence of disabled persons in the community and to keep safe and functional for the disabled the streets, highways, sidewalks, walkways, public buildings, public facilities, other public places, places of public accommodation, amusement and resort, and other places to which the public is invited, and to offer assistance to disabled persons upon appropriate occasions.

§ 6 -- It is the policy of this State that the blind, the visually handicapped, and the otherwise physically disabled shall be employed in the State Service, the service of the political subdivisions of the State, in the public schools, and in all other employment supported in whole or in part by public funds on the same terms and conditions as the able-bodied, unless it is shown that the particular disability prevents the performance of the work involved.

Section 1 of the Model Act merely acknowledges modern public policy while Section 2 gives full rights to the blind in the use of public facilities, without additional expense if accompanied by a guide dog. Section 3 recognizes that motorists should respect the user of a white cane and take all necessary precautions.

Section 4 of the act establishes the principle that people should be selected for employment on the basis of ability to perform the task and not their disability, while Section 5 would serve to increase public awareness and consciousness of the blind and their rights by the declaration of an annual White Cane Safety Day. Section 6 would also have the desirable effect of stimulating employment opportunities for the blind in the public service.

It is submitted that if such legislation is passed provincially, then modern social policy will be better facilitated. In addition, such legislation would simply consolidate and rationalize many existing pieces of legislation and governmental policy. To merely legislate that only a blind person may carry a white cane, as in Nova Scotia,¹⁹⁷ is not enough to protect and promote the civil rights of the blind as a minority group. Such legislation as presently exists in Nova Scotia does little to help the blind in tort, and, consequently, is not in tune with prevailing social policy and the aspirations of the blind.

B. R. A. M.

Early in 1970, a group of young blind people and other concerned citizens formed an ad-hoc group which later developed into the Blind Rights Action Movement (B.R.A.M.). Today, B.R.A.M. consists of an active nucleus of over thirty members, all of whom are under 35 years of age. In addition, however, B.R.A.M. can call on many more blind and seeing people who are deeply concerned with the plight of the visually handicapped citizen in Nova Scotia.

It is evident that B.R.A.M. emerged as an outlet for the frustration that many of the blind feel after having been treated as passive consumers of an inadequate system. The amazing fact is that the blind have not become embittered by their treatment in the past and the frustrations brought about by the cumbersome and, sometimes, callous bureaucratic machinery. It is because of the communication gap and the fact that officialdom is alienated from the blind and their aspirations that B.R.A.M. has been able to act as a catalyst.

From the outset, B.R.A.M. were treated in a condescending manner by many of the officials in the various organizations dealing with the blind. Several members of B.R.A.M. feel that, in the past two years, they have been unduly pressured by those officials who should really be helping the blind consumer to have a voice in the shaping of their future. Clearly, many officials have not responded to this manifestation of constructive criticism in an appropriate manner. As any entity grows larger,

either public or private, it tends to become more remote and further removed from the people that it purports to serve. If this alienation is to be checked, it is necessary to have an independent and vigorous consumer input. Such is provided by B.R.A.M.

Our investigations revealed to us that, time and time again, B.R.A.M. were more closely attuned to the needs and desires of the blind consumer than were the officials of the responsible governmental and private organizations and institutions. If progress is to be made, then it would be appropriate for government, the C.N.I.B., the Halifax School for the Blind and other agencies to carefully nurture the blind consumer movement rather than ignore or suppress it. By responding to the voice of the blind consumer, agencies would do much to eradicate their image of paternalism.

Consumer organizations such as B.R.A.M. can do much to make organizations more responsive and less alienated but can also have a tremendous impact on the consumer himself. B.R.A.M. has had the effect of developing a social consciousness among its members and has enabled the blind, for the first time, to act collectively in their own interest. This, because of the physical handicap involved, has not been a simple matter to accomplish but it is to the credit of the members of B.R.A.M. that they have had the requisite tenacity to build a viable consumer movement.

The success of B.R.A.M. has mainly been seen in the area of initiative and change. In the Spring of 1971, B.R.A.M. officials were ridiculed when they advocated Opportunities For Youth Projects of a self-improvement type for blind people. However, B.R.A.M. went ahead and employed 35 people in the Summer of 1971 and later 25 people under a Local Initiatives Program grant. It is fortunate that B.R.A.M. had the foresight to ignore outside advice as, in doing so, they created a job placement record for 1971 that compares favourably with any other organization serving the blind in Nova Scotia. B.R.A.M. have been able to develop the concept of self-help and self-reliance notwithstanding barriers placed in their path.

The significance of B.R.A.M. is that it has acted as a "change agent" bringing about concrete changes in status (for example, by employment programs) and in reshaping attitudes of people in authority as well as the blind themselves. What is particularly encouraging is the propensity of B.R.A.M. to try new avenues and vehicles in order to bring about change. The description, above, reveals that major changes are needed and it is essential that when future changes occur, the blind consumer be fully consulted and allowed to bring forward a useful input. Such organizations as B.R.A.M. should, therefore, be encouraged and maintained by both levels of government, thus ensuring that reform is appropriate, humane, desirable and fit for the purpose.

The policy of integration of the blind into the community, referred to above, is a significant step in the right direction in that it promotes self-reliance. Clearly, if the emphasis on self-help is to proceed properly, then the voice of the consumer must be heard. The blind in the past have been passive consumers of inadequate services and, therefore, the efforts of B.R.A.M. should be encouraged if the philosophy of self-help is to be promoted. The notion of promoting collectively produced consumer needs and desires is not inconsistent with the goals of the agencies dealing with the blind. All such agencies profess to have "the best interests of the blind at heart" and it is logical, therefore, to communicate with and encourage the blind themselves to decrease alienation and ensure that change is truly responsive. It follows that B.R.A.M. will continue, in the foreseeable future, to have an important role to play and the authorities should recognize this.

Appendix i

Legislation Relating to Blind Persons

Nova Scotia, Revised Statutes of Nova Scotia (R.S.N.S.) 1967.

Blind Workmens Compensation Act	Ch. 24
Education of the Blind Act	Ch. 82
Municipal Corporations Supplementary Powers Act	Ch. 196
Optometry Act	Ch. 218
Social Assistance Act (and Regulations)	Ch. 284
White Cane Act	Ch. 339
Human Tissue Act	Ch. 132
Elections Act	Ch. 83
Education Act	Ch. 81
Interprovincial School for the Deaf Act	Ch. 152
Municipal Act	Ch. 192
Minimum Wage Act	Ch. 186
School Loan Fund Act	Ch. 278
Universities Assistance Act	Ch. 320
Vocational Education Act	Ch. 331
Juries Act	Ch. 156
Motor Vehicle Act (S. 60(8))	Ch. 191
Child Welfare Act (as amended Stats. N.S. 1968, c. 18)	Ch. 31

Appendix ii

Persons Interviewed

School Attendance

Mr. Robert Biairsto, Supervisor of Attendance, Nova Scotia Department of Education.

Miss Marjorie Cook, Attendance Officer, Halifax School Board.

Inspector Reg. Foley, Attendance Officer, Dartmouth.

Mr. Kevin Burns, Director of Family and Child Welfare.

Mr. Harold Beck, Supervisor of Protection Services for Halifax.

Mr. R. J. Hill, C.N.I.B.

Mr. Charles Allen, Superintendent of the Halifax School for the Blind.

Dr. Harold Nason, Deputy Minister of Education.

Pre-School Programs

Mr. C. Allen, Administrator, Halifax School for the Blind.

Mr. L. Legge, Principal, Halifax School for the Blind.

Dr. Robert Parkin, Child Psychiatrist, who acted as Psychiatric Consultant for the Halifax School for the Blind from 1964-1968.

Dr. Doris Hirsch, Child Psychiatrist, I. W. K. Memorial Hospital.

Mrs. Boyd, Pre-School Counsellor, C.N.I.B., Halifax.

Mr. P. H. Johnson, Administrator of Family and Child Welfare, Department of Public Welfare.

Mrs. Lois Ackers, Supervisor of Public Health Nurses, Nova Scotia Department of Public Health.

Dr. F. R. MacKinnon, Deputy Minister, Department of Public Welfare.

Mr. R. J. Hill, Director, C.N.I.B., Halifax.

Dr. Barbara Clark, Psychologist, Dalhousie University
Department of Education.

Approaches to Education

School Principals

Mr. Grant Chisholm, Principal, Tower Road School.

Sister John Hugh, Principal, Oxford Street School.

Mr. Walter Fitzgerald, Principal, Richmond Street School.

Mr. Douglas Casey, Principal, St. Catherine's School.

Mr. Paul Feinder, Principal, Halifax West Municipal High School.

Mr. G. F. Butler, Vice-Principal, Queen Elizabeth High School.

Mr. Legge, Principal, Halifax School for the Blind.

Mr. Boyd Barteau, President, Nova Scotia Teachers' Union.

Sister Mona Beaton, teacher, St. Patrick's Girls' School.

Mr. Francis Mitchell, St. Patrick's High School.

Special Education

Dr. Nason, Deputy Minister of Education, Nova Scotia Government.

Mr. Hugh Nobel, Special Education Division, Department of Education.

Miss Marjorie Cook, Halifax School Board.

Mr. Charles Allen, Halifax School for the Blind.

Others

Dr. Doris Hirsch, Child Psychiatrist, Izaak Walton Killam Children's Hospital.

Dr. Marion Whyte, Atlantic Institute of Education.

Dr. Barbara Clark, Psychologist, Dalhousie University, Department of Education.

Dr. Robert Parkin, Child Psychiatrist; formerly Psychiatric Consultant to the Halifax School for the Blind (1964-1968).

Footnotes

1. Source: C.N.I.B. Statistics (Yellow Card).
2. C.N.I.B. Maritime Division, Annual Report, December, 1971, Statement of Blind Earnings and Cash Benefits.
3. The Royal Bank of Canada Monthly Letter; Montreal, September, 1971.
4. S.O.R./60-299 "Blind Persons Regulations", Amended; made pursuant to powers conferred in Blind Persons Act; R.S.C. 1951, c. 38, Section 11 (1)(a).

Previously the word "blind" was defined in S.O.R./55-15, Section 2(2), Blind Persons Regulations of 1955 as

"For the purpose of the Act and these regulations, a person shall be deemed to be 'blind' only when the visual acuity of such person, after correction through the use of proper refractive lens, is not more than 6/60 Snellen or the field of vision in each eye of such person is reduced to less than ten degrees."
5. See in particular Scott, Robert A., The Making of a Blind Man, Russell Sage Foundation, New York, 1969, at p. 39.
6. Information obtained by Dr. Donald MacRae of Halifax, Nova Scotia.
7. Blind Persons Regulations S.O.R./55-15, Section 6(2).
8. R.S.N.S. 1967, c. 339.
9. R.S.N.S. 1967, c. 24.
10. Use of Eyes in Partially Sighted Children in Selected Papers, Fiftieth Biennial Conference of the Association for Education of the Visually Handicapped, June-July, 1970.
11. Ibid.
12. Ibid.
13. Ibid.
14. Ibid.
15. Berraga, Natalie, Visual Impairment: An Abstract of Effects of Experimental Teaching on the Visual Behaviour of Children Educated as Though They had no Vision; Selected Convention Papers; Washington, Council for Exceptional Children, pp. 70-74.

16. Skottowe, P. F., The Law Relating to the Blind, London, Butterworths 1967, pp. 1, 8 and 54 et seq.
17. R.S.N.S. 1967, c. 81.
18. Section 79.
19. R.S.N.S. 1967, c. 82.
20. R.S.Nfld. 1952, c. 51.
21. R.S.Nfld. 1952, s. 242-250.
22. R.S.P.E.I. 1951, c. 145 as amended by Stats. P.E.I.; 1955 c. 28; 1958 c. 29; 1961 c. 55.
23. Section 138.
24. Section 1(b).
25. Stats. N.B. 1966, c. 8 as amended by 1967 c. 34.
26. 1967 c. 34 (note a new section 7A).
27. Not yet proclaimed - i.e. 1967, c. 34.
28. R.S.N.B. 1952, c. 202.
29. R.S.Que. 1964, c. 235.
30. Section 272.
31. Section 274.
32. R.S.O. 1960, c. 361.
33. Section 6(1) and Section 6(2)(b).
34. R.S.O. 1960, c. 94, s. 15(2).
35. Reg. 80/60.
36. Ss. 19 and 20.
37. R.S.M. 1970, s. 255(2).
38. R.S.M. c. B-60.
39. Stats. Alberta, 1970, c. 100.
40. Section 133(1).

41. Section 134(1)&(2).
42. R.S.B.C. 1960 c. B-19, s. 121 as amended by Stats. B.C. 1961, c. 57.
43. The Education of Blind and Deaf Persons Act, R.S.S. 1965, c. 192.
44. Section 3(2).
45. R.S.S. 1965, c. 193.
46. The Education Act, R.S.N.S. 1967, c. 81, s. 2(2).
47. Ibid., s. 79(1).
48. Ibid., s. 80(1).
49. Ibid., s. 81(1)(a).
50. By Mr. Robert Biairsto, Supervisor of Attendance, Nova Scotia Department of Education.
51. Reported by Mr. Hugh Nobel, Director of Special Education, Nova Scotia Department of Education.
52. Op. cit. (1).
53. R.S.N.S. 1967, c. 82, as amended by Stats. N.S. 1969, c. 39.
54. An Act To Incorporate The Halifax Asylum For The Blind, Stats. N.S. 1867, c. 50, as amended by Stats. N.S. 1884, c. 11; 1926, c. 132; 1939, c. 98; 1966, c. 119.
55. Ibid.
56. This information was provided by Mr. Charles Allen, Superintendent of the Halifax School for the Blind in an interview in August, 1971.
57. Dr. Harold Nason, interviewed August, 1971.
58. Mr. C. Allen, interviewed August, 1971.
59. This information was provided by Mr. R. J. Hill, and Mr. C. Allen, Superintendent of the Halifax School for the Blind, both interviews being conducted in August, 1971.

60. Miss Marjorie Cook, Attendance Officer for Halifax who is also Director of Special Services, Halifax School Board and Inspector Reginald Foley, Attendance Officer for Dartmouth who is also a member of the Dartmouth Police Force.
61. See Appendix No. ii.
62. An extensive bibliography has been compiled and is available upon request.
63. Described by Dr. Robert Parkin, Psychiatric Consultant at the Halifax School for the Blind, 1965-69.
64. Ibid., and Dr. Doris Hirsch, interviewed June, 1971.
65. Superintendent, Halifax School for the Blind.
66. Op. cit. (3).
67. One Million Children.
68. Nancy A. Roeske. Emotional Disturbance and Sensory Deprivation - A Possible Relationship - Selected papers 50th Biennial Conference of the Association of the Visually Handicapped, June-July, 1970, p. 121.
69. David Freedman, Congenital and Pre-natal Sensory Deprivation - Some Studies In Early Development.
70. Ibid., at p. 1541.
71. Dr. Robert Parkin.
Dr. Don Hirsch.
See op. cit.(8) at p. 122.
72. Miriam Norris, Patricia J. Spaulding, Fern Brodie, Blindness in Children, University of Chicago Press, 1957, p. 66.
73. See particularly the Celdic Report, p. 30.
74. See Bowlby, The Young Handicapped Child, London: E.S. Livingstone Ltd., 1957, p. 7.
75. Vita S. Sommer, The Influence of Parental Attitudes and Social Environment on The Personality Development of the Adolescent Blind, A.F.B.W.Y., 1944.
76. Ibid., at p. 102.

77. See infra, p. 14.
78. This program was suggested in interviews with Dr. Robert Parkin, Dr. Barbara Clark and Dr. Doris Hirsch.
79. Information concerning the C.N.I.B. Pre-School Program was gained in interviews with Mrs. Boyd, the Counsellor; Mr. B. Hill and Mr. Byatt.
80. See p. 7, supra.
81. See p. 1, supra.
82. The Superintendent reported that Clinic was used on six occasions during the 1970-71 school year.
83. See B. Norris, P. J. Spaulding and F. H. Brodie, Blindness in Children, University of Chicago Press, 1957, p. 66.
84. Strangely, there is no enabling act for this. Dr. F. R. MacKinnon, Deputy Minister of the Department, reports that his Department merely budgets for this.
85. Mr. D. H. Johnson, Administrator of the Family and Child Welfare Branch of the Department of Public Welfare.
86. B.R.A.M. Conference, Halifax, July 12-14, 1971.
87. Hundreth Annual Report of Board of Managers and Superintendent of the Halifax School for the Blind.
88. Information received from the Maritime School for the Deaf.
89. Information received from Ontario School for the Blind.
90. Interviews with officials of Halifax School for the Blind and Annual Reports of the School.
91. Correspondence with Ontario School for the Blind.
92. Supra, footnote 90.
93. Both Brantford and the Perkins Institute in Boston teach dictaphone typists and data processors. The University of Manitoba has a course in computer programming especially designed for blind students.
94. The C.N.I.B. Weir Centre in Toronto.

95. Supra, footnote 89.
96. Supra, footnote 89.
97. See p. 11, et. seq.
98. Data supplied by Mr. C. Allen, Halifax School for the Blind in an interview August, 1971.
99. Mr. Hugh Nobel, Director.
100. Pinebrook Report, American Foundation For The Blind, Reports No. 2, New York, 1954, p. 54.
101. For more detailed descriptions of these settings see generally "Concerning The Education of Blind Children" compiled by G. E. Abel.
102. Several public school principals would include: Mr. Hugh Nobel, Special Education, Department of Education; Mr. Boyd Barteaux, President, Nova Scotia Teachers' Union; Miss Marjorie Cook, Director of Special Education, Halifax School Board.
103. Dr. Doris Hirsch, Dr. Marion Whyte and Dr. Barbara Clark.
104. Sister Mona Beaton, teacher at St. Patrick's Girls' School. Mr. Francis Mitchell, Registrar at St. Patrick's High School.
105. See particularly Jones, J. W. The Visually Handicapped Child, Washington: U.S. Department of Health, Education and Welfare, 1963, pp. 35-36; Ashcroft, S.C., Blind and Partially Seeing Children in L. M. Dunn (Ed.), Exceptional Children In The Schools, New York. Holt, Rinehart & Winston, 1963, pp. 413-461; Tonkovic, F., An Approach to the Problem of Integrated Education of Blind Children, The International Journal For the Education of the Blind, Vol XVI, May, 1967, p. 115; Hathaway, W., Education and Health of the Partially Seeing Child, 4th ed., New York: Columbia U. Press, 1966.
106. Frampton, M. E. The Tragedy of Modern Day Education for the Blind as Practiced in the Integrated Public Day School Classes. New York: The New York Institute for the Blind, 1966.
107. McGuinness, Richard M. A Descriptive Study of Blind Children Educated in the Itinerant Teacher, Resource Room, and Special School Settings: American Foundation for the Blind, Research Bulletin No. 20, March, 1970.

108. Havill, Stephen J. The Sociometric Status of Visually Handicapped Students in Public School Classes: American Foundation For The Blind Research Bulletin No. 20, March 1970, p. 57.
109. Luckoff, Irving F. and Whitman, Martin, Socialization and Segregated Education, American Foundation For The Blind, Research Bulletin, No. 20, 1970, p. 91.'
110. Ibid., p. 105.
111. Carroll, I. J., Blindness: What It Is, What It Does and How To Live With It. Boston: Little, Brown & Co., 1961.
112. Lowenfeld, Berthold, The Role of the Residential School in the Education of Blind Children in Concerning the Education of Blind Children, compiled by Georgie Lee Abel, American Foundation For The Blind, No. 12 Educational Series, New York, 1959.
113. Supra, footnote 2.
114. Blind Persons Act, R.S.C. 1952, c. 17.
115. C.C.B. Information Pamphlet, Head Office: London, Canada.
116. R.S.C. 1970, c. B-7.
117. R.S.C. 1970, c. E-8, Schedule I 2(h).
118. R.S.N.S. 1954, c. 23, as amended by Stats. N.S. 1957, c. 16, and Stats. N.S. 1969, c. 21.
119. Stats. N.S. 1931, c. 2, as amended by Stats. N.S. 1937, c. 49; 1943, c. 28; 1944, c. 30; 1947, c. 41.
120. R.S.C. 1970, c. B-7.
121. R.S.C. 1970, c. C-1.
122. Old Age Security Act, R.S.C. 1970, c. O-6.
123. S.O.R. 65/494.
124. This information from conversation with Mr. Donald Webber, Director of Blind Persons Allowances and Old Age Assistance, Department of Public Welfare, Province of Nova Scotia.

125. This statistic and the table which follows are abstracted from "Report on the Administration of Allowances for Blind Persons in Canada", Fiscal Year Ended March 31, 1970, Department of National Health and Welfare, p. 17.

Saskatchewan and Ontario have transferred most of the Blind recipients to programs under the Canada Assistance Plan - see page 63. This accounts for the low figures cited.

126. Information supplied by Mr. Donald Webber.
127. Supra, Footnote 4.
128. See Philip F. Skottowe, The Law Relating to the Blind, London, Butterworths, 1967, pp. 1-2, and 8. 54 ff.
129. Skottowe, Ibid., p. 3.
130. R.S.N.S. 1967, c. 24.
R.S.B.C. 1960, c. 31.
R.S.A. 1970, c. 31.
R.S.S. 1965, c. 285.
R.S.M. 1970, c. 297 (Workmen's Compensation Act).
R.S.O. 1970, c. 46.
R.S.Q. 1964, c. 159 (Workmen's Compensation Act).
R.S.N.B. 1952, c. 20.
Stats. P.E.I. 1962, c. 2.
R.S.Nfld. 1952, c. 254.
131. This is classified as B.P.A. 6, V.T. 10. 153.
132. S.O.R./55-15, 1955.
133. R.S.C. 1970, c. D-6.
134. R.S.C. 1970, c. O-5.
135. R.S.C. 1970, c. W-5.
136. R.S.C. 1970, c. O-6.
137. S.O.R. Consolidation, 1955.
138. Stats. N.S. 1970, c. 16.
139. This statistic is accurate as at June 30, 1971, and was supplied by Mr. Donald Webber.

140. R.S.C. 1970, c. C-1, ss. 4, 5.
141. N. F. Cragg, The Canada Assistance Plan Today, an address by the Director of the C.A.P. to the Municipal Welfare Conference, Halifax, N.S., October 22, 1970, Published by the Department of Public Welfare, Province of Nova Scotia.
142. See "Report on the Administration of Allowances for Blind Persons in Canada", Fiscal Year Ended March 31, 1970, Department of National Health and Welfare, p. 19. The transfer in Ontario would account for their low average monthly payment compared with the other provinces. See the table, p. 7.
143. Department of National Health and Welfare Report on Administration of Allowances in Canada, 1970, Table 12, p. 19.
144. Ss. 10-18 of the June 1, 1971, regulations made under the Social Assistance Act.
145. This last is the category of a B.P.A. recipient. Note that where a family "boards" the gifure replaces the allowance for food and rent.
146. By section 18 of the regulations the consideration of rent, heat, electricity, and water may not exceed \$115 in any month.
147. The B.C. figures abstracted from "Assistance for the Aged, Blind, and Disabled" published by the B.C. Department of Social Welfare, 1968, and amended to March 1, 1971, p. 6.
148. This estimate from a July 15, 1971, directive to researchers by the editors of a "Bulletin of Canadian Welfare Law".
149. National Assistance Act, 1946.
150. Social Security Act, 1966.
151. See Passim Scottowe, Footnote 16.
152. Leonard, The Early History of English Poor Relief, 3 (1900). 39 Eliz. 1, c. 3, (1597); 43 Eliz. 1, c. 2 (1601).
153. H. R. Doc. No. 83, 74th Cong., 1st Sess. (1935).
154. H. R. Doc. No. 397, 73rd Cong., 2nd Sess. 2 (1934).

155. 68 Stat. 652 (1954), 29 U.S.C. 31-42 (1964) as amended 29 U.S.C. § 31-42 (Supp. 1, 1965).
156. Soc. Sec. Amendments 1956, ch. 836 § 311(a), 70 Stat. 848.
157. 79 Stat. 418, 42 U.S.C. § 1382 (1965).
158. Foot M., Aneurin Bevan Vol. 1, p. 139; Four Square Ed. 1965.
159. Reich C. A., The New Property, 73 Yale L. J. 733 (1964).
160. Allport, G. W., Personality and Social Encounter 97, (1960).
161. See N. F. Cragg, supra, p. 74.
162. Leonard, The Early History of English Poor Relief, (1900).
163. Aquinas, T.: "It is some goodness in a blind man that he lives, but it is evil in him that he lacks sight."
164. White Cane Act, R.S.N.S. (1967), c. 339.

British Columbia

Blind Persons' White Cane Act, R.S.B.C. 1960, c. 30.

Alberta

Blind Persons' White Cane Act, R.S.A. 1970, c. 30.

Saskatchewan

The White Cane Act, R.S.S. 1965, c. 380.

Manitoba

The White Cane Act, R.S.M. 1970, c. 292.

Ontario

The White Cane Act, R.S.O. 1970, c. 496.

Quebec

White Cane Act, S.Q. 1968 (2nd Session), c. 61.

New Brunswick

White Cane Act, R.S.N.B. 1952, c. 249.

Prince Edward Island

White Cane Act, R.S.P.E.I. 1951, c. 175.

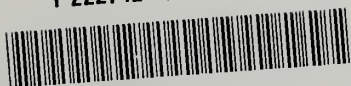
Newfoundland

White Cane Act, S.Nfld. 1956, no. 20.

- 165. (1932) A.C. 562.
- 166. Ibid., 580.
- 167. Re: Polemis (1921) 3 D.B. 560; 90 J.K.B. 1353; 37 T.L.R. 940; Wagon Mound (No. 1) (1961) A.C. 388; (1961) 1 All E.R. 404; Hughes v. Lord Advocate (1963) A.C. 837; (1963) 1 All E.R. 705; Wagon Mound (No. 2) (1966) 2 All E.R. 709. See Passim Linden, Studies in Canadian Tort Law (1968).
- 168. McLaughlin v. Trimmer (1946) 79 Ll. L.R. 649 and Nova-Mink Ltd. v. Trans-Canada Airlines (1951) 2 D.L.R. 241.
- 169. (1943) A.C. 92.
- 170. Ibid., 109/110 per Lord Wright.
- 171. (1950) W.N. 310
- 172. Haley v. London Electricity Board (1965) A.C. 778 at 797/798.
- 173. (1955) 3 D.L.R. 681.
- 174. Ibid., 684.
- 175. Salmond, Law of Torts, 427, 13th edition, 1961.
- 176. Ibid., Footnote 173 at 683.
- 177. Ibid., Footnote 172.
- 178. Ibid., Footnote 172 at 795.
- 179. Ibid., Footnote 172 at 788.
- 180. Ibid., Footnote 172 at 781.
- 181. Ibid., Footnote 172 at 786.
- 182. Ibid., Footnote 172 at 787.
- 183. Dias R. W. M., A Hole in the Road, 73 The Listener 292, 294 (1965).
- 184. Ibid., Footnote 172.
- 185. See Passim, Farrell, The Story of Blindness (1956).
- 186. Ibid., Footnote 172 at 791 per Lord Reid.

187. Ibid., Footnote 172 at 807 per Lord Guest, at 798 per Lord Evershed, and at 791 per Lord Reid.
188. Ibid., Footnote 172 at 795 per Lord Reid.
189. Ibid., Footnote 172 at 800/801.
190. Ibid., Footnote 172 at 805.
191. Ibid., Footnote 172 at 791.
192. Ibid., Footnote 171.
193. Ibid., Footnote 173.
194. Ibid., Footnote 172 at 799.
195. (1964) 2 Q.B. 121, 129.
196. Supra, Footnote 164.
197. Ibid., Footnote 164.

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